

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO.
ELH-15-0261

STANISLAV STEVEN YELIZAROV,

Defendant

_____ /

(Evidentiary Hearing)
Tuesday, February 22, 2022
Baltimore, Maryland

Before: Honorable Ellen L. Hollander, Judge

Appearances:

On Behalf of the Government:
Paul E. Budlow, Esquire

On Behalf of the Defendant:
Sicilia C. Englert, Esquire

Reported By:
Mary M. Zajac, RPR, FCRR
Fourth Floor, U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

1 (Proceedings commenced at 10:09 a.m.)

2 MR. BUDLOW: This is the United States of America
3 versus Stanislav Yelizarov. It is Criminal Number ELH-15-261.
4 There's also a related civil filing under ELH-19-0973.

5 THE COURT: Counsel.

6 MS. ENGLERT: Good morning. Sicilia Englert on behalf
7 of Mr. Yelizarov, who is present.

8 THE COURT: All right. And just so we're clear -- you
9 may all have a seat -- this is a continuation of a hearing that
10 began on January 27 of this year.

11 So, I believe we concluded with the testimony of Mr.
12 Waldman when we were here last on January 27. And the government
13 didn't have any other witnesses. Is that right?

14 MR. BUDLOW: Your Honor, I just want to maybe do
15 housekeeping at the same time as answering that question. You
16 had suggested or maybe asked if Mr. Murtha would be available. I
17 don't think it's critical, but I do hope that he might be here in
18 time to testify this morning. I understand that we have
19 scheduling issues in terms of timing.

20 Mr. Murtha has court this morning. He said he would
21 attempt to make it here maybe by 11. So I wanted to make the
22 Court aware of that. I think his testimony would be brief and it
23 would relate only to the issue that came up during the cross
24 examination of Mr. Waldman.

25 And I would ask that if I, when he gets here, if I

1 could check with his schedule, I wouldn't want to interrupt other
2 matters for no reason, but if he does have other places to be in
3 terms of court, I would ask to interrupt the witness at that
4 time.

5 THE COURT: All right.

6 MR. BUDLOW: Go ahead.

7 THE COURT: Last time you had co-counsel with you, Mr.
8 Budlow.

9 MR. BUDLOW: That's the other thing I wanted to say.
10 Mr. Zelinsky might join me mid-proceedings if he can.

11 THE COURT: Okay. Then who's the next witness?

12 MR. BUDLOW: I'm sorry. One other housekeeping matter.

13 THE COURT: Oh, okay.

14 MR. BUDLOW: So I wanted to -- and I may do this later.
15 But during the proceedings last time there was a reference to an
16 email that was listed as an attachment to the defense attorney's,
17 the defendant's filing. And it was redacted. And I did think
18 that the -- and the Court inquired of Mr. Waldman if the portions
19 that were redacted, you said you don't need to tell me, but do
20 they relate to your conversations at that time. And for context,
21 Mr. Waldman had just been talking about his conversations with
22 the defendant relating to the news that the government was
23 investigating a murder. My memory of that was that counsel then
24 indicated to the Court that that did not relate to those
25 conversations.

1 However, upon viewing the full email, which Ms. Englert
2 was nice enough to provide to me I think over the summer, when it
3 was originally filed as redacted, I do think that the remainder
4 of the email does relate to the conversation and it does relate
5 to the murder. So I just wanted the Court to be aware of that
6 and have the full document.

7 THE COURT: Is it available for the Court to look at?

8 MR. BUDLOW: I'm sorry, Your Honor. I have also
9 provided some exhibits that I anticipate using today, many
10 potentially during cross examination. But that one is listed as
11 M-16. And it should be at the top of the package that I provided
12 to the Court. Specifically, the portions that were redacted
13 begin with the line "you will see."

14 THE COURT: So is it that you're going to introduce an
15 unredacted version?

16 MR. BUDLOW: Yes. I would, I ask that that be
17 introduced as part of the record. I would ask that it be, this
18 document specifically remain under seal because it does identify
19 a witness by name.

20 THE COURT: Okay. Any objection? So, the bottom line
21 is the Court will be able to review it but you don't want it
22 publicly filed because -- or you can just omit the name of the
23 witness and the rest would not have to be -- so the sealed
24 portion, in other words, the public portion would just redact the
25 name of the witness.

1 MR. BUDLOW: So, with the Court's permission, we
2 could -- two possibilities. One is leave this whole document
3 under seal, because Ms. Englert did file a version that is
4 redacted. However, if you wanted me to be a little more surgical
5 I could certainly, at the end of the proceedings today, redact
6 this in a way that removes any reference to his name. And the
7 reason I hesitate is that I think simply name, given the context,
8 isn't enough, but I think a few other redactions might be
9 necessary.

10 I'm happy to do that and submit it to the Court.

11 THE COURT: Yes. I think as much as can be public is
12 what should be public.

13 MR. BUDLOW: And so I'd ask that this be under seal
14 entirely. I will submit a redacted version for filing.

15 THE COURT: That's fine. Any objection?

16 MS. ENGLERT: Well, Your Honor, if the government would
17 like to put that in, the defense --

18 THE COURT: You've got to keep your voice up, counsel.

19 MS. ENGLERT: Yes. If the government would like to put
20 that in that way, defense doesn't have an objection to that. I
21 think that as far as what was put in that was not redacted, I
22 think was correctly captured as far as Mr. Waldman's conversation
23 with the defendant, I think was in the part of the email that was
24 not redacted. And I think the government has a broader
25 interpretation of this conversation with Mr. Yelizarov was about

1 the murder and the rest of this email was not about that
2 conversation but was, had something to do with the murder.

3 THE COURT: Well, I haven't seen it so I have
4 absolutely no idea.

5 MS. ENGLERT: You're right. Fine. No objection.

6 THE COURT: Okay. Thank you. Okay. So are we
7 finished with housekeeping matters?

8 MR. BUDLOW: Yes. Thank you, Your Honor.

9 THE COURT: Okay. So who is our next witness?

10 MS. ENGLERT: Your Honor, we would call Mr. Yelizarov.

11 THE COURT: All right.

12 MS. ENGLERT: I guess as Mr. Yelizarov is taking the
13 stand, I would like to officially make the transcript of the last
14 hearing of January 27th of this year a part of the record.

15 THE COURT: Well, the transcript is the record, isn't
16 it?

17 MS. ENGLERT: It is. I have a copy of it for the
18 Court, if you would --

19 THE COURT: Okay. That would be nice. And we have to
20 swear in the witness.

21 THE CLERK: Mr. Yelizarov, please stand and raise your
22 right hand for me.

23 STANISLAV YELIZAROV, DEFENDANT, SWORN

24 THE DEFENDANT: Yes.

25 THE CLERK: All right. You may lower your hand and

1 have a seat.

2 While speaking clearly into the microphone, can you
3 please state and spell your name?

4 THE DEFENDANT: Stanislav, S-T-A-N-I-S-L-A-V.
5 Yelizarov, Y-E-L-I-Z-A-R-O-V.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MS. ENGLERT:

9 Q Good morning, Mr. Yelizarov.

10 A Good morning.

11 Q Are you currently in prison?

12 A Yes.

13 Q And where are you currently in prison?

14 A Cumberland, North Branch Correctional Institution.

15 Q At some point --

16 THE COURT: So is that a Maryland facility?

17 THE WITNESS: Yes, ma'am.

18 BY MS. ENGLERT:

19 Q At some point did you face federal charges in this case?

20 A Yes.

21 Q What were you charged with?

22 A A Hobbs Act, Hobbs Act robbery, as well as kidnapping and
23 something else. Can't exactly remember.

24 Q Were you charged with any firearms offense?

25 A Yeah. Right. Carrying or brandishing a firearm or

1 something during a crime. It was like six indictments.

2 Q Who represented you on those charges?

3 A Robert Waldman.

4 Q Did Mr. Waldman meet with you?

5 A Yes.

6 Q And what did you, when you first met with Mr. Waldman, what
7 did you tell him that you wanted to do with this case?

8 A Go to trial.

9 Q Did he come to you and review the evidence, the government's
10 evidence with you?

11 A Yes.

12 Q How many times would you say that he came to visit you and
13 review the government's evidence?

14 A Say 10 to 15 times. About 10 to 15.

15 Q Did Mr. Waldman discuss with you pleading guilty in this
16 case?

17 A Yes.

18 Q And what was your response to him?

19 A That I wanted to go to trial and put the witnesses on the
20 stand.

21 THE COURT: I'm sorry. What was the last part?

22 THE DEFENDANT: Put the witnesses on the stand.

23 THE COURT: Why did you want to go to trial?

24 THE DEFENDANT: Because they had a bunch of
25 circumstantial evidence and unindicted and indicted

1 coconspirators' testimony. And their main evidence was the
2 testimonies.

3 BY MS. ENGLERT:

4 Q So how many times again would you say that Mr. Waldman came
5 to see you and review evidence?

6 A I believe about 10 to 15 times in person.

7 Q And during those meetings, did he go over different aspects
8 of the government's case?

9 A Yeah. We reviewed a lot of circumstantial evidence.

10 Q And what led you to change your mind about -- well, let me
11 just say. Did Mr., Mr. Waldman present a plea offer to you in
12 October of 2015?

13 THE COURT: Did Mr. Waldman what?

14 Q Present a plea offer to you --

15 THE COURT: Oh.

16 Q -- in October --

17 THE COURT: October of what year?

18 Q -- of 2015?

19 A Yeah. I believe it was the 34 to 40 years, or something
20 like that, plea agreement.

21 Q I'd like to show you what has been previously filed as ECF
22 442-5. May I approach the witness?

23 THE COURT: Yes. Does it have an exhibit number here?

24 MS. ENGLERT: It doesn't. I wasn't sure because this
25 had been previously filed. Should I -- I can go ahead and put an

1 exhibit number on it. This is what's been marked as Defendant's
2 Exhibit Number 2. It's also been filed at ECF 442-5. May I
3 approach the witness?

4 THE COURT: Yes.

5 BY MS. ENGLERT:

6 Q Mr. Yelizarov, what did I just hand you?

7 A I believe this is the first plea agreement of the 34 to 40
8 years.

9 Q Would you please turn to Paragraph 15 of that agreement?

10 A Yup.

11 Q Well, first of all, when Mr. Waldman came to you with that
12 agreement, did he go over this agreement with you?

13 A Yes.

14 Q Did he go over what you would be pleading guilty to?

15 A Yes.

16 Q And did he explain to you what the government would seek as
17 far, or recommend as a sentence in this plea agreement?

18 A Yes.

19 Q And what did Mr. Waldman tell you about further prosecutions
20 after pleading guilty under this plea agreement?

21 A That there wouldn't be any further prosecutions.

22 Q Would you turn to Paragraph 15 -- Page 7, Paragraph 15?

23 A Yup.

24 Q What does that paragraph say?

25 A This office represents that State's Attorney's Office for

1 Baltimore County will pursue no further criminal charges arising
2 out of the events described in the factual stipulation attached
3 hereto provided that the defendant receives a sentence pursuant
4 to the plea agreement. No other representations with respect to
5 other conduct have been made or are contemplated under this
6 agreement.

7 Q Mr. Yelizarov, what did Mr. Waldman explain to you that that
8 paragraph meant?

9 A It meant that after I took the guilty plea to the said
10 document and to the charges, that there wouldn't be any further
11 prosecutions or charges or indictments coming my way.

12 Q And did Mr. Waldman recommend that you take this plea
13 agreement?

14 A Yes.

15 THE COURT: And you said this was October of 2015, is
16 that right, that you met with Mr. Waldman?

17 THE DEFENDANT: Yes, ma'am. I believe it was about
18 that time, around the first plea agreement.

19 BY MS. ENGLERT:

20 Q After signing this plea agreement there was a -- do you
21 remember when the plea hearing was scheduled?

22 A No, I don't remember the exact date. But I believe it was
23 maybe a month afterwards, about a month. I think it was December
24 or November.

25 Q Okay. After signing that agreement, did Mr. Waldman come

1 and visit you in late November of 2015?

2 A I believe so, yes.

3 Q And did, in the meeting that, visit that I'm referencing is
4 when Mr. Waldman raised the issue of a murder to you. Do you
5 remember that meeting?

6 A Yes.

7 Q What did Mr. Waldman tell you about a murder investigation?

8 A Basically said that Mr. Budlow informed him of some kind of
9 homicide that me and my indicted and unindicted buddies may have
10 been involved in.

11 Q And what did he tell you about this murder?

12 A Not much. Just something about Reisterstown Road and
13 Fallstaff Road. He literally came with no information, was very
14 vague. And the name of the person.

15 THE COURT: He did or didn't give the name of the
16 person?

17 THE DEFENDANT: Yeah. It was Ruder's Antiques. Gave
18 me the name of the person and the store.

19 BY MS. ENGLERT:

20 Q Had you heard about this murder before Mr. Waldman had
21 talked to you about it?

22 A Yes.

23 Q And did you tell Mr. Waldman that you were involved in this
24 murder?

25 A No.

1 THE COURT: No, you didn't --

2 THE DEFENDANT: No.

3 THE COURT: The answer's confusing.

4 THE DEFENDANT: No, I did not.

5 THE COURT: No, you didn't tell him you were involved?

6 THE DEFENDANT: No.

7 THE COURT: Okay.

8 THE DEFENDANT: I did not. I was not involved.

9 BY MS. ENGLERT:

10 Q Did you tell Mr. Waldman any details about this murder?

11 A No. I just told him in regards to the people that were
12 involved in, in the actual Hobbs Act case, that they were
13 possibly involved and they possibly knew about it.

14 Q Did you ever tell Mr. Waldman that you weren't worried about
15 your involvement in this murder?

16 A Mind you, it was very vague, the information that he brought
17 me. But, no, I never told him that I wasn't worried about a
18 possible homicide indictment of any kind.

19 Q Did you ever tell Mr. Waldman that you, that the government
20 would never get you on it?

21 A No.

22 Q And when you came, when it came time for your plea hearing
23 under the October 2015 plea agreement, did you go through that
24 plea agreement?

25 A No.

1 Q And did -- after that plea agreement didn't go through, did
2 Mr. Waldman attempt to negotiate another plea agreement for you?

3 A Yes.

4 THE COURT: So why didn't the plea agreement go
5 through?

6 THE DEFENDANT: The first one? This one right here?

7 THE COURT: I'm sorry?

8 THE DEFENDANT: The first one?

9 THE COURT: Yes.

10 THE DEFENDANT: Because I told him that I wanted to go
11 to trial, that I didn't feel comfortable with this plea.

12 THE COURT: Wait. But you signed it, so I'm confused.

13 THE DEFENDANT: He told me to sign it, ma'am. I had no
14 legal experience whatsoever. And the attorney that was provided
15 to me by the CJA tells me that the codefendants, unindicted and
16 indicted, that their testimony was enough to convict me. And I
17 later found out through LexisNexis and legal research that that
18 was not true. Therefore, I backed out of the plea.

19 THE COURT: So you're saying that -- I'm very confused.
20 I'm sorry. You signed this plea agreement, the first one, the
21 one your lawyer showed you just a moment ago. And then after you
22 signed it -- and this one the government was going to recommend a
23 sentence of no more than 40 years, right?

24 THE DEFENDANT: Correct.

25 THE COURT: Then what happened that you didn't go

1 forward on it? Did you tell that to Mr. Waldman? You change
2 your mind? Or did that happen at court? What happened?

3 THE DEFENDANT: No, we didn't make it to court. I told
4 him, I believe through a phone call, that I didn't want to go
5 forward with this plea agreement.

6 THE COURT: Okay.

7 THE DEFENDANT: And that I wanted to proceed to trial.
8 BY MS. ENGLERT:

9 Q What was Mr. Waldman's advice to you after you refused to go
10 forward with the plea agreement?

11 A He was telling me that I was making a mistake, the trial
12 wasn't a good idea, and that he would try to get a different plea
13 agreement.

14 Q And did Mr. Waldman negotiate another plea agreement with
15 you or for you?

16 A Yes. There were several different offers that were made by
17 Mr. Budlow's office.

18 Q Were there some offers that you rejected?

19 A Yes.

20 Q How many times do you recall going back and forth, or
21 different terms?

22 A I know the least, were at least three different offers,
23 three different kind of offers. Three to four, for sure.

24 Q Did there end up being a plea offer that you finally signed?

25 A Yeah. I believe I took a (C) plea, a (C) plea, a 30-year

1 (C) plea.

2 Q I'd like to show you what's been marked as Defendant's
3 Exhibit Number 3. It was also filed at ECF 442-1. May I
4 approach the witness?

5 THE COURT: Yes.

6 Q Mr. Yelizarov, will you please describe the document I just
7 handed to you?

8 A This is the, well, I wouldn't say second plea agreement that
9 was offered, but that is the second plea agreement that I signed
10 or agreed to, dated February 2nd, 2016.

11 Q What did Mr. Waldman explain to you about the terms of this
12 plea offer?

13 A That it would basically be a 30-year (C) plea. And if the
14 judge accepted it that, you know, it wouldn't, it wouldn't be any
15 higher than 30 years, and that there wouldn't be any further
16 prosecutions, and I'd be home by about 50 years old.

17 Q I'd like you to turn to Paragraph 18 of the February 2nd,
18 2016 agreement. Would you please read that paragraph?

19 A Page 8, right?

20 Q Correct.

21 A This office represents that the State's Attorney's Office
22 for Baltimore County will pursue no further criminal charges
23 arising out of the events described in the factual stipulation
24 attached thereto provided that the defendant receives a sentence
25 pursuant to this plea agreement. No other representations with

1 respect to any other conduct have been made or are contemplated
2 under this agreement.

3 Q Would you please compare Paragraph 18 from the February 2nd,
4 2016 agreement with Paragraph 15 of the October 12th, 2015 plea
5 agreement? What difference do you see in those two paragraphs?

6 A There is no difference. They're identical. They're
7 basically identical.

8 Q What did Paragraph 18 of the February 2016 agreement mean to
9 you?

10 A It wasn't just what it meant to me, it's what Waldman said
11 to me, that there wouldn't be any further prosecutions, that
12 there wouldn't be any more indictments.

13 Q Did you think that by pleading guilty under this agreement
14 that you would not be subject to any further prosecutions?

15 A Yes.

16 THE COURT: Now, let me ask you about that belief. So
17 you just read Paragraph 18 out loud. And it says that there
18 would be no further criminal charges arising out of the events
19 described in the factual stipulation that's attached.

20 The factual stipulation, sir, begins -- well, it's got
21 its own page numbers. It's at the end of the document. Is there
22 anything in the murder, about the murder in the factual
23 stipulations?

24 THE DEFENDANT: No. But I wasn't provided any
25 information about the murder by Mr. Waldman.

1 THE COURT: You weren't what?

2 THE DEFENDANT: I wasn't provided any information about
3 the murder by Mr. Waldman himself, either, as he stated himself.

4 THE COURT: But at that point had he told you the
5 government was investigating the murder?

6 THE DEFENDANT: The first time he stated the very vague
7 information that Mr. Budlow provided to him.

8 THE COURT: And just so the record is clear for the
9 appellate court, I just want it to be understood that we're all
10 wearing masks and there's plastic around us and it does muffle
11 the sound a little bit. So if anybody is having trouble
12 discerning something, speak up. But I just need you to keep your
13 voice up, sir. I know you and I are seated near each other, but
14 I still want to make sure I don't miss anything.

15 THE DEFENDANT: I got you.

16 THE COURT: So -- okay. Thank you.

17 BY MS. ENGLERT:

18 Q Did you, did you consult another attorney about this plea
19 agreement? Well -- yeah. Did you consult another attorney
20 specifically about this plea agreement, other than Mr. Waldman?

21 A To be specific, my family tried to hire Joe Murtha for me.
22 And it wasn't really a consultation as much as him telling me how
23 much he was going to charge my family.

24 Q Did he -- did you talk to him, though, about this particular
25 plea agreement to get -- did you talk to him about this plea

1 agreement?

2 A No. I don't believe he ever saw the plea agreement.

3 Q Did you ever consult with him or get his opinion about
4 whether or not to plead guilty under this plea agreement?

5 A No. It wasn't -- no. He wanted to get paid first.

6 Q So did, did you ever retain Mr. Murtha --

7 A No.

8 Q -- to represent you?

9 A I didn't have the money and I didn't want my family spending
10 that money that I didn't have to repay them.

11 Q Who was the one who brought Mr. Murtha into contact with
12 you?

13 A My family. My father and my mother. Mainly, my mother and
14 some of her other family members from her side of the family
15 tried to hire him.

16 Q And were they seeking to replace Mr. Waldman --

17 A Yes.

18 Q -- with Mr. Murtha?

19 A Yes.

20 Q And did you -- and you already testified about this, but did
21 you ever retain Mr. Murtha to replace Mr. Waldman?

22 A No, I did not.

23 Q So getting back to your plea agreement. Did you, in fact,
24 plead guilty on February 24th, 2016?

25 A Yes.

1 Q And before you, before you pled guilty, did Mr. Waldman ever
2 tell you that after pleading guilty the government could still
3 prosecute you for a murder?

4 A No. He told me there would be no further prosecutions, no
5 further indictments.

6 Q All right. After you pled guilty on February 24th, were you
7 sentenced on April 13th, 2016?

8 A Yes.

9 Q What was your sentence?

10 A Thirty years.

11 Q And was that consistent with your plea agreement?

12 A Yes.

13 Q Did you have any contact with Mr. Waldman after your
14 sentencing?

15 A No, I don't believe so.

16 Q And is there a limit to the number of people that you can
17 call while in prison? Where were you in prison at that time?

18 A I was in Hagerstown, Maryland Correctional Training Center.

19 Q Did you have to get approval in order to -- did you have to
20 have a list of approved phone numbers in order to make phone
21 calls?

22 A Yup. You have 10 people on your phone list. And I removed
23 Mr. Waldman shortly after our case was done because, you know, I
24 had no further contact with him.

25 Q Were you indicted for murder on June 21st, 2016?

1 A Yes.

2 Q Were you -- what was your, what was your reaction to this
3 murder indictment?

4 A I was shocked, surprised.

5 Q And who represented you on this murder indictment?

6 A Michael Lawlor.

7 Q Did you complain to him about being indicted for murder
8 after you thought that the government would not pursue further
9 prosecution of you?

10 A Yes.

11 Q Did Mr. Lawlor do anything about your complaint?

12 A He said that we have to file a 2255 for ineffective
13 assistance.

14 Q In which case? Your murder case or your robbery case?

15 A For the Hobbs Act case in regards to Mr. Waldman's
16 misrepresentation.

17 Q And did he do that for you?

18 A Yes.

19 Q Beyond that conversation Mr. Waldman had with you when he
20 first told you about this murder investigation, did he raise that
21 again with you during his representation of you?

22 A I'm sorry. Can you repeat that? I kind of lost the
23 question.

24 Q Sure. After Mr. Waldman talked to you initially about the
25 government's murder investigation, did he continue to discuss

1 this murder investigation with you?

2 A No.

3 Q Did he tell you that you would likely be prosecuted for
4 murder even after you pled guilty to the robbery?

5 A No.

6 Q If Mr. Waldman had told you that even after pleading guilty
7 to this robbery case that the government would likely still
8 prosecute you for murder, would you have pled guilty in that
9 robbery case?

10 A No, I would have went to trial.

11 Q No further questions.

12 MR. BUDLOW: You did meet with Mr. Murtha --

13 THE COURT: Wait. Wait. Give me one second.

14 MR. BUDLOW: Oh, sorry.

15 THE COURT: So you're saying you never would have pled
16 guilty, you would have gone to trial if you had been told by Mr.
17 Waldman that an indictment was likely in the murder case? Is
18 that what I understood?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. Thank you.

21 CROSS EXAMINATION

22 BY MR. BUDLOW:

23 Q Thank you, Your Honor. I just need a second. While I'm
24 setting up, back to your comments about Mr. Murtha. Just to be
25 clear, you and Joe Murtha met in person, didn't you?

1 A Yes. He came to visit me at MCTC.

2 Q And your parents had set that up, didn't they?

3 A Yes.

4 Q And they had paid him for that consult, hadn't they?

5 A No, not that I know of.

6 Q Do you know for sure whether they did or didn't?

7 A Not that I know of.

8 Q So they might have?

9 A It's a possibility. But I believe he told me that he didn't
10 get paid, that that was a consultation visit.

11 Q A consultation relating to the plea agreement that you had
12 already signed?

13 A No. Relating to me hiring him.

14 Q So I'd like to turn to your written filings in this case.
15 And first I'm going to show you, if this works -- it's always
16 risky. Okay. And I'll enlarge it in a second. This is, for the
17 record, Your Honor, ECF 299 in this case. It's also marked as
18 Government's Exhibit M-18 for the purpose of the motion.

19 Actually, Your Honor, while I'm thinking of it, I would
20 ask that in addition to the exhibits that are on my exhibit list
21 relating to the last hearing and then again today, the government
22 also would offer, just to make sure it's part of the record, all
23 of the attachments that were part of the government's filing in
24 this case. And that filing is marked as 442. There were a
25 number of exhibits to that, including some transcripts. I

1 believe it goes 442-1 through at least 8. But I'd ask that they
2 all be part of the record for these proceedings.

3 So first, Mr. Yelizarov, is that your handwriting?

4 A I don't see it. There's nothing up here.

5 Q Oh, I'm sorry.

6 THE COURT: We're going to work on that.

7 Q Thank you.

8 THE CLERK: Is it up?

9 A The screen's turned on now. The power button is blue. Yup,
10 it's up.

11 Q Is it up now?

12 A Yeah.

13 Q Great. So is that your handwriting?

14 A Yes.

15 Q And that's your signature under oath at the bottom, correct?

16 A Yes.

17 Q I want to draw your attention and ask you to read this first
18 sentence of the second paragraph. Could you read that out loud?

19 A Your Honor, why would I plead guilty to 30 years if Mr.
20 Waldman would actually provide me with the information that Paul
21 Budlow informed him of, that the prosecution was looking into a
22 homicide that me and my buddies were involved in?

23 Q And this was something that you wrote on December the 6th of
24 2018, right?

25 A Correct. Yup. That's what it's dated.

1 Q This is before you had counsel relating to the 2255,
2 correct?

3 A Before I had Ms. Englert?

4 Q Right. Well, you haven't had any other counsel on this
5 2255, have you?

6 A No.

7 Q Okay. So this was written by you in hand before you had
8 counsel for the 2255?

9 A Correct.

10 Q And it was before you filled out the affidavit that was
11 later attached as part of the 2255 that Ms. Englert did file for
12 you?

13 A I'm sorry. Can you repeat that?

14 Q Yes. This written statement by you was written out prior to
15 the affidavit that you later filled out as part of Ms. Englert's
16 filing in this case?

17 A Oh, yes. Correct.

18 Q And in that sentence you -- Your Honor, why would I plead
19 guilty to 30 years if Mr. Waldman would actually provide me with
20 the information that Paul Budlow informed him that the
21 prosecution was looking into a homicide? So you're saying there
22 that you would not have pled guilty had you known that the
23 prosecution was looking into a murder that you were involved in.
24 That's exactly what you said, right?

25 A Can you show me the whole letter? Because I believe -- it's

1 a little bit out of context the way you're putting it.

2 Q Take your time and read the whole letter.

3 A All right.

4 (Pause in proceedings.)

5 A Okay. And this is where I'm stating that Mr. Waldman didn't
6 come to me with any kind of information other than saying that
7 you, your office was looking into a homicide. He came to me with
8 nothing.

9 Q Does this letter say that you were informed of a homicide in
10 any way?

11 A No, not exactly me as the prime target, no.

12 Q It doesn't say that Mr. Waldman had advised you of any
13 additional investigation, does it?

14 A No.

15 Q Okay. In fact, what you're saying very clearly to the judge
16 is that had you known about the murder at all, you would have
17 never pled guilty. Isn't that what you said in this letter?

18 A No. I believe you're taking it out of context.

19 Q You don't believe that this letter is you saying that
20 Waldman never told you about the murder in any way?

21 A No. Once again, exactly as Mr. Waldman said in his own
22 affidavit and his own testimony, he gave me vague information.

23 Q Right. No. We understand --

24 A And he said me and my buddies were involved.

25 Q We understand what he testified to under oath. What I'm

1 saying is before he testified to that under oath, didn't you
2 write to the judge that you didn't know about the murder at all
3 when you pled guilty?

4 A No. That's not what I meant whatsoever. That I didn't know
5 about?

6 Q It's not what you meant but it is what you said, right? It
7 is what that says?

8 A I wouldn't say exactly that.

9 Q Mr. Yelizarov, isn't this your attempt early on in this case
10 to get out of this guilty plea by saying you didn't even know
11 about the murder?

12 A No.

13 Q All right. Let's move on to September the 19th of 2020. By
14 this point you had an attorney, Ms. Englert, correct?

15 A By what date?

16 Q The fall of 2020.

17 A Yeah, I believe so.

18 Q All right. And at that point your consultation with her was
19 about vacating the guilty plea in this case?

20 A Correct.

21 Q And you were aware that you had, through counsel, obtained
22 Mr. Waldman's file during the preparation of that motion. Isn't
23 that correct?

24 A I believe so, yes.

25 Q And you learned during your preparation of that affidavit

1 that Mr. Waldman in fact kept notes in his representation of you,
2 didn't you?

3 A I believe so. Sure.

4 Q And so nearly two years after this filing in front of you,
5 299, you signed an affidavit in support of the motion for which
6 we're here today. Is that right?

7 A Did you say that you're trying to show me something?

8 Q No. You're familiar -- we'll show you the affidavit in a
9 minute. I just want you to agree or disagree that two years
10 after you filed this affidavit, you signed another affidavit?

11 A Oh, yes, with an attorney's help, as I'm no attorney and I
12 didn't really know exactly what I was filling out.

13 Q And in the more recent affidavit, just like in the 2018
14 affidavit, you signed it swearing under oath that the contents
15 were true, didn't you?

16 A Correct.

17 Q So this is M-19 for the purposes of this hearing. It's also
18 attached as 421-1. This is an attachment to the defendant's most
19 recent motion under 2255. Moving to Page 2. Is that your
20 signature at the bottom?

21 A Yes.

22 Q And let's go to page, let's go to number 6. Number 6 says
23 Mr. Waldman told me that the government was investigating a
24 murder that the government thought I was possibly involved in.
25 You swore now in 2020 that that was true, didn't you?

1 A Yeah. It happened when he came to see me in November or
2 December.

3 Q Right. And you wrote that in 2020. Correct?

4 A Yes, with the attorney's help.

5 Q And after you were aware that Mr. Waldman's notes had been
6 provided?

7 A No. Once again, you got -- which notes are you speaking of?

8 Q His notes relating to his meetings with you about the
9 murder.

10 A No. There was no such notes that he took and there wasn't
11 anything that I provided him for him to take notes.

12 Q So part of your --

13 THE COURT: Notes, just to be clear that counsel is
14 referencing, would be Mr. Waldman's notes, not your notes.

15 THE DEFENDANT: I would have to see what notes he's
16 talking about.

17 BY MR. BUDLOW:

18 Q So I want to -- Court's indulgence. All right. For the
19 record, Your Honor, what's on the screen now is document 421,
20 filed by the defense. And this is M-20 for the purposes of
21 today. I want to draw your attention to Page 12, Mr. Yelizarov.
22 And for the record, those are my highlights, Your Honor.

23 Is part of your complaint in these proceedings that
24 your attorney did not investigate the murder charge, is that
25 right?

1 A Yes. He didn't investigate what he was talking about, that
2 you brought to his attention.

3 Q Right. I just want to be clear. Part of your complaint
4 about how he was ineffective is that he did not investigate the
5 murder charge?

6 A Correct.

7 Q And moving, drawing your attention to the second paragraph
8 here. Mr. Waldman did nothing to educate himself or the client
9 regarding the murder investigation. Mr. Waldman failed to
10 investigate what evidence the government had, how strong, or
11 whether it intended to prosecute Mr. Yelizarov. That's part of
12 your complaint here today?

13 A What you just showed me?

14 Q Right. The fact that Mr. Waldman did not properly
15 investigate the murder.

16 A Yeah. He said it himself, he did nothing.

17 Q And part of your complaint, also, is that your attorney did
18 not negotiate -- Mr. Waldman, that is -- a package deal to
19 include the robbery and the murder charge?

20 A Yes, that is one of them.

21 Q And this is the highlighted portion that I wanted you to
22 read. It says that despite government notice to Mr. Waldman that
23 it was investigating you for murder, Mr. Waldman conducted no
24 further investigation, did not negotiate a plea agreement that
25 precluded further prosecution, and did not pursue a combined plea

1 agreement. So part of your complaint here today, just to be
2 clear, is that Mr. Waldman was ineffective for not pursuing a
3 combined plea agreement, correct?

4 A As one of the issues, yes.

5 Q Okay. Now, let's go to Page 14 at the top where, again, on
6 the same topic it says prevailing social (sic) norms would have
7 dictated that Mr. Waldman further investigate, communicate the
8 likelihood of further prosecution and seek a combined plea
9 agreement. That's part of your claim here today, correct?

10 A Correct.

11 Q And then one more. Top of Page 16 and the bottom of Page
12 16. Again, it says there's a reasonable probability had counsel
13 negotiated an agreement precluding further prosecution or sought
14 a combined plea agreement, that Yelizarov would have received a
15 lower sentence than pleading guilty to each case separately.
16 That's part of your claim because you're saying you would have
17 considered a combined plea agreement had he done his job?

18 A I would have weighed all my options.

19 Q All right. And then at the bottom it says, had counsel
20 informed Mr. Yelizarov that there was a real possibility that he
21 would be charged in a murder case, Yelizarov would have sought a
22 plea agreement that precluded further prosecution -- again, last
23 thing is what I want you to focus on -- or combined plea
24 agreement. That's part of your allegation, right?

25 A One second. Yes, correct. Or go to trial.

1 Q So one of the things that you're alleging about Mr. Waldman
2 was that he did not resolve both cases at the same time, meaning
3 the murder and the robbery, right?

4 A Correct. As well as no investigation.

5 Q And do you realize -- well, there's multiple other things.
6 I just want to focus on that one. Do you realize that in order
7 to resolve both the robbery and the murder, that would have
8 required you, as part of the negotiation, to plead guilty to the
9 murder charge?

10 A That would have been one of the options, yes, I understand.

11 Q And let's explore that option. So that would mean in order
12 to plead guilty to that charge, that you would have had to admit
13 under oath that you shot Wayne Ruder 15 times, including 10 in
14 his head? Do you understand that?

15 A Yes, in regards to taking a guilty plea.

16 Q And is it your testimony today, consistent with your
17 affidavit, that you would have pled guilty to a global resolution
18 where you would have also admitted to killing Wayne Ruder?

19 A Not that I would have. I would have weighed my options.
20 But I would have went to trial if I would have been charged.

21 Q So would you have pursued a combined plea agreement
22 resolving both the murder where you would have had to plead
23 guilty to the murder, or wouldn't you have?

24 A If I was indicted with the murder?

25 Q No. My question is, if Mr. Waldman came to you and said --

1 let me back it up. You're saying Mr. Waldman, one of the things
2 he's ineffective for was that he didn't pursue a combined plea to
3 both cases. What I'm asking you is under any circumstances would
4 you have admitted in that combined plea that you shot Wayne Ruder
5 15 times?

6 A No, because I didn't.

7 Q So would you agree, then, to the extent that your claims in
8 writing here today say that he was ineffective for failure to
9 seek a combined plea, you are abandoning those claims because you
10 would have never pled guilty to that murder?

11 A That's not what I said. In regards to actually being the
12 plea to the actual murder, it would be for my attorney and me to
13 conduct a proper investigation, for me to know all the details,
14 for me to know exactly what's going on, what I'm being indicted
15 with. And then I would have weighed my options.

16 Q Mr. Yelizarov, you were subsequently indicted and provided
17 discovery. So today you know exactly what we're talking about
18 when we say the murder investigation, correct?

19 A Partially. Because I still wasn't provided with everything.

20 Q My question to you is, since you're claiming he was
21 ineffective for failure to resolve this case globally, would you
22 or would you have not have pled guilty to the murder with the
23 right deal?

24 A Once again, those options would have had to been weighed
25 with the proper representation and knowing whether or not I was

1 getting indicted.

2 Q Would you have pled guilty to the murder under any
3 circumstances?

4 A Once again, those options would have had to been weighed,
5 with proper representation.

6 Q You're just saying the same thing over but you're not
7 answering my question. Mr. Yelizarov, if he negotiated a global
8 plea, would you have said under oath I killed Wayne Ruder?

9 A Possibly.

10 Q Possibly. Okay. So is it true that you were part of a
11 post --

12 THE COURT: Let me just ask counsel, just to be clear,
13 because that was Judge Garbis's case. That is what happened,
14 isn't it?

15 MR. BUDLOW: Well, there was no global plea, Your
16 Honor. He did plead guilty.

17 THE COURT: It wasn't global but you're asking him --

18 MR. BUDLOW: Yes.

19 THE COURT: -- and he keeps seeming to suggest he
20 wouldn't have admitted to something, but he did admit to it.

21 MR. BUDLOW: And, Your Honor, because where I'm going
22 next is to the defendant's extensive filings to get out of that,
23 claiming he was innocent, as well as multiple other places --

24 THE COURT: Okay.

25 MR. BUDLOW: -- where he professes his innocence. And I

1 think it goes to his credibility.

2 Isn't it true that, while incarcerated in the Maryland
3 Department of Corrections, you had a recording posting to
4 Facebook?

5 MS. ENGLERT: Objection.

6 THE COURT: Well, I was going to ask counsel to repeat
7 the question.

8 MR. BUDLOW: Sure. Isn't it true that while you were
9 incarcerated in the Maryland Department of Corrections, that you
10 had a recording of your voice posted to the Facebook account in
11 your name?

12 THE COURT: And what's the objection?

13 MS. ENGLERT: Well, objection as to relevance because
14 this is about whether or not Mr. Yelizarov would have pled guilty
15 at that time. The government is bringing in a lot of post
16 plea --

17 THE COURT: Well, I have no idea when this even took
18 place, this posting. So we don't have that. It's hard for me
19 to --

20 MR. BUDLOW: It's dated, Your Honor.

21 THE COURT: Pardon?

22 MR. BUDLOW: I'm sorry. I didn't mean to interrupt.

23 THE COURT: What time frame are we talking about?

24 MR. BUDLOW: It's dated -- this was a publicly
25 available Facebook post on December 4th, 2020. It's still there

1 now.

2 THE COURT: Okay. December 4 of 2020. Okay. Well, I
3 don't know enough about it to answer whether I think it's
4 relevant.

5 BY MR. BUDLOW:

6 Q It will -- I mean, I think it's relevant, at least the
7 government's theory would be clear. Mr. Yelizarov, you did the
8 post, correct?

9 A Yes.

10 Q And that's your face that we see, correct?

11 A Yes.

12 Q And that's a photograph of you, it's a still photo, even
13 though it's part of an audio, that shows at the beginning of this
14 Facebook post?

15 A Yes.

16 Q And in that post there's a recording of your voice, correct?

17 A Correct.

18 Q And in that recording you multiple times discuss the murder
19 case, don't you? That's the basis of the recording?

20 A Yes.

21 Q Okay. And in that recording you profess your innocence to
22 the murder that you've already been prosecuted for, multiple
23 times, don't you?

24 A Prosecuted multiple times?

25 Q Sorry. You had made an excellent point because that was a

1 terrible question.

2 During that recording and on multiple occasions during
3 the recording you profess your innocence to the crime of the
4 murder of Wayne Ruder?

5 A Correct.

6 Q And in your pleadings -- let me actually go one more. This
7 is what plays after your face is shown during the recording, the
8 words "wrongly convicted." This is M-22. Isn't that correct?

9 A Correct.

10 Q And in your pleadings, in the 2255 that was filed to vacate
11 the guilty plea in that case, the Judge Garbis case, you state
12 that you are completely innocent and that you did not kill Wayne
13 Ruder. Isn't that true, that's what you filed?

14 A Correct.

15 Q And let's look at Grand Jury Exhibit 23. I'm sorry. This
16 is Government's Exhibit 23 for today. It's document 129 in the
17 Judge Garbis case.

18 THE COURT: So this is in the murder case?

19 MR. BUDLOW: Yes.

20 THE COURT: This is ECF 1 --

21 MR. BUDLOW: 129.

22 THE COURT: 129.

23 MR. BUDLOW: And that's your handwriting --

24 THE COURT: What's your exhibit number? M-23?

25 MR. BUDLOW: Yes. Up on the top left hand.

1 THE COURT: Okay. Thank you.

2 BY MR. BUDLOW:

3 Q Mr. Yelizarov, that's actually your handwriting again, isn't
4 it?

5 A Yes.

6 Q And this is something you just wrote on January 23rd, 2022,
7 correct?

8 A Correct.

9 Q And it was filed on February 7th, 2022. And in this you say
10 that you're not guilty of the murder, don't you?

11 A Correct.

12 Q Let's go to Page 3. Court's indulgence. All right. So you
13 tell the judge in that case that you didn't, you're complaining
14 about not having a private investigator who did any work who
15 could have proven several issues with the case, as well as
16 finding the real murderer. So you would agree that in this
17 filing that you wrote at the beginning of this year you're saying
18 I'm not the real murderer of Wayne Ruder, somebody else is?

19 A Correct.

20 Q So based on your testimony today, again, is it fair to say
21 you're abandoning any claim that you would have negotiated a plea
22 where you would have had to plead guilty under oath to killing
23 Wayne Ruder?

24 A No. I'm not abandoning that at all because sometimes you
25 have to plead guilty to something that you're not guilty of.

1 Q Well, you know there's no Alford pleas as to murder cases in
2 federal court, Mr. Yelizarov. Do you know that?

3 A No, I don't.

4 Q So if I told you that the only way to plead guilty to a
5 murder case in federal court is to admit under oath that you
6 committed the murder, would you have done that in this case?

7 A No.

8 Q So you would agree, then, that you are abandoning your claim
9 that Mr. Waldman was ineffective for failure to negotiate a
10 global plea?

11 A Once again, if you're going back to Mr. Waldman, then I
12 would have weighed all my options when they were brought to me.
13 This was Mr. Lawlor and his poor representation.

14 Q Okay. But now in this case, you do admit that Robert
15 Waldman told you about the murder case?

16 A On the first, what was it, the first meeting.

17 Q Do you admit that he told you about the murder case?

18 A He told me that Mr. Budlow was looking into a homicide
19 investigation that me and my buddies were involved in. That was
20 it.

21 Q So, is that a yes, that you admit that he told you about the
22 murder investigation?

23 A Yes.

24 Q Okay. And he came to see you at MCTC and got a private room
25 and told you that he needed to meet with you, correct?

1 A Correct.

2 Q And then he told you in that meeting that I told him there
3 was an old murder case that was being investigated and that you,
4 Stanislav Yelizarov, were the suspect?

5 A No. That's not how he worded it at all.

6 Q Did he convey to you that you were being investigated for
7 murder?

8 A Me and the people that were indicted and unindicted in the
9 Hobbs Act case, yes.

10 Q And you told him that the government would never prove it,
11 didn't you?

12 A I never said that.

13 Q You did not say to him "what murder case", did you?

14 A Of course I did.

15 Q You did say "what murder case?"

16 A Yeah.

17 Q Is it true that many of your friends and acquaintances had
18 been talking for years, before you ever were charged in any of
19 these cases, for years that you had committed the murder of Wayne
20 Ruder?

21 A I have no idea --

22 Q Is it --

23 A -- what rumors --

24 Q -- your testimony here today that prior to Mr. Waldman
25 telling you about that case, that you had never heard in the

1 community that people were saying that you killed Wayne Ruder?

2 A No. I don't know what rumors people spread left and right.

3 Q But you do hear some rumors sometimes, right?

4 A Sure, everybody hears rumors.

5 Q And when Mr. Waldman told you about the murder, didn't you
6 tell him that Alex Binder knew about the murder?

7 A I told him that the people that were unindicted and indicted
8 in the Hobbs Act case knew about it and somebody who was possibly
9 involved with the case.

10 Q So you didn't know anything about the murder, but then you
11 knew who might know about the murder? Is that what you're
12 saying?

13 A No. Once again, me not knowing who committed the murder.

14 Q Okay.

15 A And me not being the person that committed the murder.

16 Q Right. No. My question isn't about whether you did it. My
17 question is, did you know about the murder?

18 A Yeah. All of Pikesville, all of Baltimore knew.

19 Q And you told Mr. Waldman that not only did you not do it,
20 but certainly the people who were indicted and unindicted in your
21 robbery case, you believed they knew about the murder of Wayne
22 Ruder?

23 A People constantly talked about it. That was it.

24 Q I'm asking you what you told Mr. Waldman.

25 A No. I didn't tell him no such thing.

1 Q Didn't you testify earlier that you told Mr. Waldman, just
2 on direct examination, that your coconspirators and unindicted
3 coconspirators, they knew about the murder, but not you?

4 A I'm not exactly understanding how you're saying the
5 question.

6 Q In your direct examination didn't you answer a question by
7 saying that during your meeting with Mr. Waldman you told him
8 that your coconspirators in the robbery and the unindicted
9 coconspirators knew about the murder?

10 A Oh, okay. Yes, correct.

11 Q So you knew who knew about this murder?

12 A No. That's -- you're trying to word it your way. That's
13 not what I said whatsoever.

14 Q What did you say?

15 A I said that these people possibly were involved, especially
16 the unindicted people like Alexander Binder, because he had a
17 relationship with Mr. Ruder.

18 Q Who else did you mention?

19 A I believe -- who was it -- Dimitriy Novozhilov, because he
20 also worked at the pawn shop that Alexander Binder worked at.

21 Q I'm going to do a favor for the court reporter. Could you
22 spell that, please, if you know?

23 A No, I don't.

24 Q How about Dimitriy? Could you help us with that?

25 A D-M-I-T-R-I.

1 Q And how about, just say the last name again, a little
2 slower.

3 A Novijiva.

4 Q Okay. All right. Now I'm going to show you -- and I know
5 this is not your handwriting, correct?

6 A No.

7 Q And, Your Honor, I would just ask the record to reflect if
8 defense counsel agrees, that when defense counsel filed their
9 email for Mr. Waldman redacted and I asked for the unredacted
10 copy, Ms. Englert was nice enough to provide me with both that
11 email and Mr. Waldman's notes. And that Government's Exhibit
12 M-17 initially are the notes.

13 THE COURT: These are Mr. Waldman's notes?

14 BY MR. BUDLOW:

15 Q I would ask that, yes, they be offered for that purpose.
16 Obviously, we didn't know they would be relevant so we didn't get
17 a chance to ask Mr. Waldman about them.

18 In fact, you told Mr. Waldman quite a bit more about
19 the murder investigation that day, didn't you?

20 A No, I did not.

21 Q All right. Let's start, I just want to ask you if you
22 recognize any of these names. Do you see on the far left side
23 these letters? Can you tell me what those are?

24 A No.

25 Q Look like an I-Y to you?

1 A I don't know who I-Y is.

2 Q Okay. How about, could you tell us if maybe one of the
3 indicted coconspirators in the robbery case has the initials I-Y,
4 Mr. Yelizarov?

5 A Oh, yeah. Igor Yasinov.

6 Q Okay. Great. So below it where it says arguably I-Y --
7 that's my interpretation -- does it say Marat and Kirill?

8 A I guess.

9 Q And under that does it say "know" also?

10 A I guess. I don't know. It's not my handwriting.

11 Q All right. Could you tell us who Marat is?

12 A Marat is one of the people that was indicted in the Hobbs
13 Act case and is my brother.

14 Q Okay. And his last name is Yelizarov, same as yours?

15 A Correct.

16 Q And who is Kirill?

17 A Kirill I'm guessing Kondratiyev, who was also -- excuse
18 me -- an unindicted coconspirator, who you gave a deal to at some
19 point.

20 Q And do you recall, in preparation for the murder case,
21 meeting with Mr. Lawlor and reviewing the Jencks or the
22 statements that they were giving, including grand jury testimony?

23 A Yeah. For about 30 minutes, sure.

24 Q And one of the grand jury testimony related to your brother,
25 Marat Yelizarov, right? Correct?

1 A I don't remember reading Marat's testimony.

2 Q And one of the testimony from the grand jury related to
3 Kiril's, correct?

4 A Once again, didn't read Kirill's. Got little paragraphs.

5 Q And did the paragraph about Kirill explain how it was his
6 testimony that the two of you went and threw the murder weapon
7 into Quarry Lake?

8 A Yeah. This was Kiril's testimony. The one where you went
9 scuba diving for 127 hours and you found nothing?

10 Q I wish it was me but, no, it was Baltimore County --

11 A Sure.

12 Q Underneath Marat and Kirill knew also, it says Michelle.
13 You had a girlfriend at the time named Michelle Braun, B-R-A-U-N?

14 A When you say at the time, she was never my girlfriend. Just
15 an associate.

16 Q How many girlfriends named Michelle have you had?

17 A Once again, can you state the time? Because I want to have
18 that on the record.

19 Q Do you know Michelle Braun?

20 A Yes, I do know Michelle Braun.

21 Q Is it fair to say you've had an off and on romantic
22 relationship with her for several years?

23 A Sexually, yes, sure. But not my girlfriend.

24 Q And then underneath of it, of Michelle, it says and maybe
25 Alina. Do you see that?

1 A I see it.

2 Q All right. And do you know an Alina?

3 A I know several Alinas.

4 Q Do you know Alina Grigorieva?

5 A Grigorieva, yeah.

6 Q All right. And are you aware that she was also listed as
7 one of the witnesses against you in the murder case?

8 A I believe so, yes.

9 Q All right. So let's look at the rest of these notes. So I
10 want to draw your attention to the part here where it has, it's
11 called a triangle. Okay? It says triangle paid \$15,000,
12 question mark. See that?

13 A Yeah, I see it.

14 Q And it says underneath that, for gold, F and AB present. Do
15 you know who AB might be in this context?

16 A I have no idea.

17 Q You mentioned him earlier.

18 A Oh, Alexander Binder.

19 Q There you go. Okay. And then it says source of jewelry not
20 clear. Could you read out loud what it says underneath of that?

21 A I can't read that.

22 Q See how it says tossed in a river with Kirill?

23 A Okay. Yeah. Tossed in river with Kirill.

24 Q So this is the information that you provided to Mr. Waldman
25 that day, isn't it?

1 A No. I provided Mr. Waldman with no such information.

2 Q And at the end of all of your meeting with Mr. Waldman, you
3 said to him, but my friends won't talk and they'll never prove
4 it.

5 A I never said that. And just to answer your question really
6 quickly. Mr. Waldman's own testimony and his affidavit stated
7 that we didn't exactly speak about the murder. I'm not sure what
8 these notes are. I've never seen them, never given him any kind
9 of information of that source.

10 Q Did you get a chance to read this email that Mr. Waldman
11 sent to your attorney?

12 A Sicilia, I found --

13 Q I'm sorry. It's the mask. I said, did you get a chance to
14 read it? You've seen it before today, right?

15 A Yeah. I believe just not the -- I believe it was redacted
16 at the bottom.

17 Q Right. Last week I think we either read or discussed all
18 the way through where it says plea at the bottom, in the middle,
19 correct?

20 A Yeah.

21 Q Okay. With the Court's permission, may I read the remaining
22 out loud?

23 THE COURT: Which part are you talking about?

24 MR. BUDLOW: Starting at "you will see."

25 THE COURT: Any objection?

1 MS. ENGLERT: Yes. I do object. I don't see the
2 purpose of the government reading this. This witness -- what was
3 redacted from my filing had, was not part of a conversation that
4 Mr. Waldman was having with Mr. Yelizarov. This was something
5 that Mr. Waldman chose to email me about. And it has facts about
6 the murder, but this is not part of a conversation that he had
7 with Mr. Yelizarov. So --

8 MR. BUDLOW: Frankly, Your Honor --

9 MS. ENGLERT: -- I object to that part of it really
10 being relevant to anything that we're talking about.

11 MR. BUDLOW: So, initially, Your Honor, my response is
12 there's no jury. If it isn't relevant, then the defense can
13 argue that.

14 I would also add that I think on its face it seems
15 particularly relevant to Mr. Waldman's conversations with the
16 defense. In fact, and I tried to do this tactfully earlier, Ms.
17 Englert made the argument to Your Honor last time that this
18 bottom part had nothing to do with that conversation. And I just
19 think it certainly does. And there's a good argument that it
20 does, even if there's maybe an argument to the other side, which
21 I don't see.

22 It also references the notes, the ones that I just
23 showed.

24 THE COURT: Well, it does indeed explain the notes.
25 And refresh my memory. Was this shown to Mr. Waldman?

1 MR. BUDLOW: It was.

2 THE COURT: That's my vague memory.

3 MR. BUDLOW: And then, in fact, you questioned Mr.
4 Waldman about -- this was toward the end of the examination. He
5 was being asked about, about the conversation on cross
6 examination. And the redacted email was shown.

7 THE COURT: I remember asking about the redaction,
8 actually.

9 MR. BUDLOW: So right at the very end --

10 THE COURT: But I don't remember any specific questions
11 from you all about it.

12 MR. BUDLOW: Right. So you specifically asked, is
13 there anything redacted that relates to the conversation?

14 THE COURT: Right. I did ask. I remember that.

15 MR. BUDLOW: Defense counsel said no. So I initially
16 wanted to make sure that we cleared that up because that just
17 doesn't appear to be accurate. And I think now in the context
18 of -- it just seems to me by redacting this highly relevant
19 information and not referencing the notes and putting on Mr.
20 Waldman to say that this was his limited memory of the meeting,
21 and right there hidden from him was way more information about
22 the meeting, both the notes and the redactions.

23 THE COURT: Well, my first question is, am I right that
24 as redacted it's in evidence already?

25 MR. BUDLOW: It is.

1 THE COURT: So --

2 MR. BUDLOW: Unredacted as well.

3 THE COURT: Okay. So then I certainly think this is no
4 issue of any substance. It's already in evidence. So if you
5 want to read it and highlight something in doing so, that's fine.

6 I had not seen the redacted part, obviously.

7 MR. BUDLOW: And I certainly think that -- I'm going to
8 read the whole thing, with the Court's permission, because now it
9 puts what, the notes that we just read in significant context.

10 It says Sicilia, I found the file. I knew I would need
11 it some day. It's pretty thick. I know you're looking for how
12 the murder did or did not play into things. I have one page of
13 notes --

14 THE COURT REPORTER: Can you please slow down?

15 BY MR. BUDLOW:

16 Q Sorry. Thank you. I have one page of notes which is
17 referenced. Attached here. Number one, Wayne's Antiques. As I
18 told you, I refrained from writing down too much on this event.
19 This page also contains facts about other as-yet uncharged
20 crimes.

21 Budlow had asked me to his office. He said they knew
22 of a murder. He asked me to find out if Yelizarov wanted a
23 combined -- to combine a plea to the kidnapping/robbery and the
24 murder. I took that news to Yelizarov. He said they would never
25 prove the murder. I asked if he had told anyone else about it.

1 He told me the names. They are in the left margin. He said he
2 wasn't worried about it. We did not pursue a combined plea.

3 You will see reference to Alex Binder. His parents
4 owned a pawn shop in a strip center on Reisterstown Road in
5 Baltimore, at the opposite end of which was Wayne's Antiques. A
6 fence, as was Binder's family pawn shop.

7 The murder took place on Christmas. Only Yelizarov was
8 there. I think Binder took the gold and jewelry. F and AB were
9 present when Y got paid, but I cannot remember who they are now.
10 I know Binder accompanied Yelizarov to Brooklyn with the goods
11 from the kidnapping/robbery to meet some Russian guy. Binder was
12 at the time of my case a 3D year U of Baltimore law student. I
13 dropped the dime on him to the Attorney Grievance Commission.
14 His admission was held up but ultimately approved I assume
15 because he was a deep cooperator. As it turned out, and Michael
16 Lawlor can tell you this, Yelizarov had a bunch of people -- had
17 told a bunch of people about the Wayne's Antiques murder,
18 including his girlfriend, who Y was convinced loved him and would
19 never talk. The other events are just violent burglaries.

20 Yours, Bob Waldman.

21 Again, Mr. Yelizarov, in light of reading this or
22 having it read, do you now agree that, in fact, you did provide
23 additional information to Mr. Waldman about who you had told
24 about the murder?

25 A No. I never did provide him with any of that information.

1 Q And do you agree that you did say to him, they'll never
2 prove it?

3 A No, I never said that to him.

4 Q So in your affidavit and here today you've said that had you
5 only known that the plea didn't cover this, that you would have
6 gone to trial?

7 A Correct.

8 THE COURT: Can you repeat that question, counsel?

9 Q Yes. Your testimony was that had known that the government
10 might prosecute you for the murder, you would have gone to trial
11 in the robbery/kidnapping case?

12 A Correct.

13 Q And you testified that you told Mr. Law -- I'm sorry -- Mr.
14 Waldman that you wanted to go to trial from the very beginning of
15 this case, didn't you?

16 A Correct.

17 Q But just so we can see where there's differences, you'd
18 agree that was not his testimony. In fact, he said that you
19 initiated the plea discussions in this case. Do you remember him
20 saying that?

21 A I don't recall that, no.

22 Q You've been charged and convicted of many crimes prior to
23 this one, correct?

24 A I don't know about many.

25 Q Well, let's start with August.

1 A There are a few.

2 Q There are a few. Let's start with one of the few. August
3 21st, 2009, you were arrested when you were a juvenile, but
4 charged as an adult, with robbery, is that right?

5 A 2009, I was not a juvenile. I was 19 years old.

6 Q All right. Do you remember being charged with the robbery
7 in that case? State court.

8 A I was charged as an adult.

9 Q Correct. With an armed robbery. No gun was recovered. Do
10 you remember that?

11 A Yes.

12 Q Did that case go to trial?

13 A No.

14 Q You pled guilty, correct?

15 A Correct.

16 Q Also, on November the 30th, 2009, while awaiting trial for
17 that case, you were arrested for a drug-related offense, right?
18 Possession of marijuana?

19 A Correct. No. Drug paraphernalia.

20 Q Did that case go to trial?

21 A No.

22 Q You pled guilty, correct?

23 A I believe it was nol processed (sic).

24 Q On January 16th, 2010, you were arrested for driving under
25 the influence and some flight-related offenses in Baltimore

1 County, correct?

2 A It was a DUI.

3 Q Did that case go to trial?

4 A No. I was guilty of that.

5 Q Did you plead guilty?

6 A Yes.

7 Q In January of 2013 you were arrested trying to cross into
8 the United States from Canada using your brother's passport. Is
9 that correct?

10 A Correct.

11 Q You were charged in federal court, right?

12 A Correct.

13 Q Did you go to trial in that case?

14 A No.

15 Q You pled guilty, correct?

16 A I was guilty.

17 Q Then you were indicted here in federal court and had a case
18 before Judge Motz, this case, which you were charged with, among
19 other things, federal robbery and conspiracy to kidnap and
20 firearms offenses, right?

21 A Correct.

22 Q And in the fall of 2015 you signed a plea agreement saying
23 that you were going to plead guilty?

24 A Yeah, the first plea agreement, the 34 to 40.

25 Q And later you signed a second plea agreement, agreeing to

1 plead guilty?

2 A Correct.

3 Q And you were what's referred to as the lead defendant in
4 that case? You were listed first in the indictment?

5 A Yeah. According to your office, yeah.

6 Q But, no, the indictment listed you first?

7 A Yeah, all right.

8 Q And did you plead guilty and were sentenced?

9 A Correct.

10 Q And even the violation of probation from Baltimore County,
11 the robbery charge, where you violated when you came back into
12 the US, and you got an 11-year sentence on that violation, you
13 pled guilty to that, too, didn't you?

14 A I was guilty.

15 Q And the murder case that was charged in 2016, you signed a
16 plea agreement on that?

17 A Yes. The, the week of the trial.

18 Q And you then came to court and entered a guilty plea under
19 oath, did you not?

20 A Yeah, the week of the trial.

21 Q And then you were sentenced, weren't you?

22 A Yes, shortly after that.

23 Q So you always plead guilty, right?

24 A Yeah. Sure. I pled guilty to said charges.

25 Q You've never, ever gone to trial, have you?

1 A I've never really known exactly what trial is or how to go
2 to trial. But, no.

3 Q All right. Now, you claim that Mr. Waldman told you about
4 the murder, right?

5 A Yes. On November.

6 Q And he told you, according to your testimony, that if you
7 pled guilty to the murder -- I'm sorry -- that if you pled guilty
8 to the robbery, the kidnapping, this case, that you would not be
9 prosecuted for the murder?

10 A Correct.

11 Q And you do agree that that promise is not mentioned in the
12 plea agreement anywhere?

13 A Well, sort of. To my, to my understanding at that time
14 that's not what --

15 Q Right. I understand you've testified as to how you
16 interpreted. But you do agree now you've looked at it, it's not
17 in there, correct?

18 A Not what was interpreted. What was told to me by Mr.
19 Waldman.

20 Q Okay. But you do agree that the document itself doesn't
21 contain reference to the murder and doesn't say that you wouldn't
22 be prosecuted for the murder?

23 A Sort of. It doesn't mention the exact murder, no.

24 Q It doesn't mention any murder, does it?

25 A No.

1 Q And you would agree that the murder is, if not the most
2 serious, a very serious crime?

3 A Yeah.

4 Q And in your meetings with Robert Waldman when you reviewed
5 the plea agreement, the second one, you never asked him about the
6 murder not being specifically referenced in the plea agreement,
7 did you?

8 A No. I did.

9 Q You did? Did you hear him testify about that?

10 A I don't believe he did.

11 Q He wasn't, he wasn't asked about that, was he?

12 A I don't recall exactly. But he told me that there wouldn't
13 be any further prosecution.

14 Q But my question to you is when you were reviewing the plea
15 agreement, did you say to him, why isn't the murder that you're
16 telling me isn't being prosecuted, why isn't that in the plea
17 agreement? Did you say that to him?

18 A I don't believe I asked him like that, no.

19 Q Did you say it to him in any way? Where's reference to this
20 promise about the murder?

21 A I don't recall that.

22 Q In fact, his testimony was the murder never came up again
23 until right before the plea, correct?

24 A No. I believe I did ask him right before he brought me the
25 30 (C) plea and he told me that your office wasn't pursuing that,

1 something about you didn't have jurisdiction, that it wasn't your
2 case, it was a Baltimore City case. Said there wouldn't be any
3 prosecution.

4 Q So your testimony is that Mr. Waldman, right before you pled
5 guilty in this case, told you something about the murder relating
6 to the government not seeking it because there wasn't
7 jurisdiction and because it wasn't in Baltimore County? That's
8 your testimony here today?

9 A No. That it was in Baltimore City. It was a Baltimore City
10 case. He said there wouldn't be any indictment in regards to any
11 homicide.

12 Q Mr. Waldman specifically told you that during a meeting you
13 had with him?

14 A It was right before I signed the 30 (C) plea, the 30-year
15 (C) plea.

16 Q And you'd agree that his testimony on that point was the
17 exact opposite, where he said, in fact he told you this does not
18 cover the murder case?

19 A He's contradicted himself more than once. So if that was
20 his testimony, then, sure.

21 Q So it's your testimony that Mr. Waldman told you, he said
22 I'm telling you the government told me they're not going to
23 prosecute you? That's your testimony?

24 A He said that the 30 year (C) plea would be it, there would
25 be no further indictments, no further prosecutions.

1 Q And it's your testimony that you trusted Mr. Waldman that
2 that wasn't going to happen?

3 A I didn't know that I didn't have to trust him. I didn't
4 know -- I thought that the Criminal Justice Act panel provides
5 decent attorneys. And I later found out that that wasn't the
6 case. Mr. Waldman --

7 Q I'm not asking your view of it today, Mr. Yelizarov. I'm
8 saying at the time that he said to you they're not going to
9 prosecute you, according to your testimony, you trusted him?

10 A Of course. I had to.

11 Q And even though it wasn't written in the plea anywhere, you
12 trusted Mr. Waldman's representations? That's your testimony?

13 A Correct.

14 Q And then you read the plea agreement, didn't you?

15 A Yes. Which one? The newest one?

16 Q The one that you ultimately entered the plea to.

17 A Yes.

18 Q All right. So this is Exhibit 1 from the motions filing,
19 Your Honor. This is the 2016 plea agreement that you just
20 testified to having read, correct?

21 A Correct.

22 Q So referencing on Page 7, Paragraph 15, it says, would you
23 agree -- wrong one. Sorry. Paragraph 18 on Page 8. It says:
24 No charges from Baltimore County relating to the events described
25 in the factual stipulation. You read that ahead of time,

1 correct?

2 A And this is exactly what I mean. This office represents
3 that the State's Attorney --

4 Q My question, sir, is did you read it ahead of time?

5 A Yeah. I read it.

6 Q Do you understand what it means when it says that Baltimore
7 County will pursue no further criminal charges from the events in
8 the facts attached? Do you understand that?

9 A My understanding was that that was in regards to any further
10 charges.

11 Q Right. But my question to you is when it says in writing,
12 no charges from the factual stipulation, you understand what that
13 means? That there's a stipulation of facts that you signed,
14 correct?

15 A Yeah. All the way in the back.

16 Q And you read those facts all the way in the back and then
17 signed the bottom, didn't you?

18 A Correct.

19 Q And you listened in court while they were read and agreed
20 that they were true, didn't you?

21 A Yeah, to a certain extent. From my understanding, I had to
22 agree to the factual stipulation.

23 Q All right. But you were there when they were read, correct?

24 A I believe so, yes.

25 Q And you know that both in writing and verbally in court

1 there was no mention of any murder, correct?

2 A I don't believe there was.

3 Q There was no mention of any crimes other than the burglaries
4 and the robberies and home invasion, correct?

5 A I believe so.

6 Q All right. And then the last sentence here says no other
7 representations with respect to any other conduct have been made
8 or are contemplated under this agreement. You read that prior to
9 signing it, right?

10 A Right.

11 Q You understand what that means, no other promises, right?

12 A I understand it better now. But at the time it was
13 explained to me very differently by Mr. Waldman.

14 Q You understood it to mean something different from what it
15 actually says?

16 A From what Mr. Waldman explained to me.

17 Q So he explained to you that even though it says one thing,
18 it actually means something way better?

19 A No. Just from the State's Attorney's Office of Baltimore
20 County will pursue no further criminal charges. That was the
21 explanation that I got that there would be no further
22 indictments, no further prosecutions.

23 Q But you agree it doesn't say that?

24 A As I look at it now, yes. But that's not what was said to
25 me.

1 Q Well, you --

2 A And I believe Mr. Waldman said that himself.

3 THE COURT: One at a time.

4 Q My questions are -- and if they're not well worded, I
5 apologize. I'm trying to be very specific and just ask you about
6 the documents. You can certainly explain how what Mr. Waldman
7 told you about it again on redirect. But I'm asking you about
8 what the document says.

9 So let's go to Page 10 and look at the last paragraph.
10 And I am going to read this out loud. This letter supersedes any
11 prior understandings, promises, or conditions between this office
12 and the defendant, together with the sealed supplement,
13 constitutes the complete plea agreement in this case. The
14 defendant acknowledges that there are no other agreements,
15 promises, undertakings or understandings between the defendant
16 and this office other than those set forth in this letter and the
17 sealed supplement and none will be entered into unless in writing
18 and signed by all the parties.

19 So you read that and you said underneath of it that you
20 read every term and then you signed it, correct?

21 A Correct.

22 Q And even though the document twice, very clearly, says no
23 other agreements, it's your testimony that you trusted not just
24 Mr. Waldman, but you trusted that the government would do what
25 Mr. Waldman said they would do, right?

1 A Correct.

2 Q Even though nobody ever put it in writing, correct?

3 A At this moment, yes. But at that time, wasn't an attorney,
4 just followed Mr. Waldman's advice.

5 Q Sure. And you trusted him and you trusted what he said the
6 government would do and wouldn't do?

7 A Correct.

8 Q So it wasn't in writing. But, also, when you went to the
9 plea hearing, it wasn't mentioned in the plea hearing, right?

10 A I don't believe it was.

11 Q Mr. Waldman didn't stand up and say "Just to clarify
12 something, this also covers a murder case from 2009?" That did
13 not happen, did it?

14 A I do not believe so as there was no indictment.

15 Q Right. And you also did not stand up and make any reference
16 on the record that, just to be clear, this also relates to the
17 murder? You didn't do it?

18 A Didn't know I could.

19 Q And you were there, and Judge Motz didn't -- he was the
20 judge, right?

21 A Yes.

22 Q And he didn't say anything about this relating to a murder,
23 either, did he?

24 A I don't believe Judge Motz was even notified of any such --

25 Q But, in fact, Judge Motz said to you -- and, for the record,

1 this is on Page 18 to 19 of the plea agreement, Your Honor -- see
2 if this will it pull up. Page 2 -- I'm sorry -- it's Exhibit 2
3 to the government's filing. Starting at the very bottom of
4 Page 18. I'll try to get there again. All right. I want you,
5 I'm going to read it again. But starting with --

6 THE COURT: What page is this?

7 Q Sorry, Your Honor. This is page, the bottom of Page 18 is
8 going to go immediately into the top of 19, starting at Line 25,
9 where it says, and this is while you were there: Most
10 importantly, is what I stated in the plea agreement to be -- most
11 importantly, is what I stated the plea agreement -- I did it
12 again. Is what I stated the plea agreement to be, as
13 supplemented by counsel, what you understand the plea agreement
14 to be? Yes, I do, you said. Judge Motz said, has anybody
15 promised you anything else? And you said, no, sir.

16 That's accurate. That happened, didn't it?

17 A I believe so, yes.

18 Q And you were under oath then just like you are now, correct?

19 A Correct.

20 Q But now you claim that even though you said under oath, and
21 signed that plea agreement, that there were no other promises,
22 now you say there was a promise, and not only was there a promise
23 but that promise was that you wouldn't be prosecuted for an
24 execution-style murder. That's your claim today, right?

25 A I didn't know I could.

1 Q You didn't know you could what?

2 A I didn't know I could say that.

3 Q You didn't know you could answer questions truthfully?

4 A No. I didn't know I was supposed to even bring that up,
5 bring that to the light. Once again, Mr. Waldman said that there
6 wouldn't be no further charges.

7 Q But you understand --

8 A I went with his advice. I went with the attorney that says
9 he's practiced in law for 25 or 30 years, and I went with what he
10 said.

11 Q But you understand the question, any other promises, right?

12 A Sure.

13 Q And when you're sitting there, pleading guilty and agreeing
14 to a 30-year sentence, aren't you thinking, there's one promise
15 he left out, the murder?

16 A No. I wasn't thinking that.

17 Q No? Okay. So you then were subsequently indicted by a
18 federal grand jury on June 21st, 2016, right?

19 A I believe it was two months afterwards. I think there was
20 an indictment that you sat on on purpose for no reason.

21 Q This is June 21st, 2016. Was that the date of the
22 indictment?

23 A I believe so. It was like two months after sentencing.

24 Q And you testified on direct examination -- I want to get
25 your words -- you were both in shock and surprised. That's your

1 testimony, correct?

2 A Correct.

3 Q You must have been because, according to your testimony, you
4 had been told that that was not going to happen, right?

5 A Correct.

6 Q And do you agree that you first learned that the indictment
7 was handed down when, not your girlfriend, but girl that you know
8 whose name is Michelle Braun, when she called you or you called
9 her, you have a recorded jail call? That's when you learned
10 about the indictment, right?

11 A No.

12 Q No? When did you --

13 A I was notified by family members I believe somewhere, I
14 don't remember exactly when in June. Somewhere in June. I don't
15 remember exactly when. But before I talked to Michelle Braun.

16 Q And how did they notify you?

17 A I believe it was by phone. No. Possibly a visit.

18 Q Oh, so you think there was a visit between June 21st and
19 June 24th where your family told you about the murder?

20 A I believe -- hold on. I don't remember exactly. But I
21 remember my family telling me -- who was it? Possibly Alperstein
22 or somebody said that there was an indictment coming down.

23 Q But you learned about it from Michelle Braun first, right?

24 A No.

25 Q Your Honor, I saw Mr. Murtha. May I just have maybe 30

1 seconds to talk about the schedule?

2 THE COURT: Sure.

3 MR. BUDLOW: Thank you.

4 (Pause in proceedings.)

5 MR. BUDLOW: Mr. Murtha is not in a huge rush. He was
6 gracious enough to say that he could to wait.

7 THE COURT: Okay. So, counsel, just for scheduling and
8 timing, how long do you anticipate your cross will take?

9 MR. BUDLOW: My cross is probably 15 minutes or less
10 left.

11 THE COURT: Okay.

12 BY MR. BUDLOW:

13 Q I hope. Okay. Thank you.

14 So we have the records of all the jail calls and all
15 the visits. And you're saying there's going to be a visit
16 between June 21st and the date of the phone call that you
17 listened to this morning, before Her Honor came out on the bench.

18 A I don't recall if it was a visit or a phone call. I was
19 notified by my family.

20 Q And do you know who it was that told you about this surprise
21 and shocking murder indictment?

22 A I don't recall exactly who it was, but I was notified by my
23 family.

24 Q Okay. So you heard, I played the phone call earlier before
25 Her Honor came out, for you and counsel. And you will agree that

1 that's your voice?

2 A Yes.

3 Q And it's Michelle Braun?

4 A Yes.

5 Q Okay. And this was a call that you had while you were
6 incarcerated in the Maryland Department of Corrections that was
7 recorded, correct?

8 A Correct.

9 THE COURT: And what's the date?

10 MR. BUDLOW: June 24th, 2016, three days after the
11 indictment.

12 Your Honor, the call's long. I am not planning on
13 playing it all. I want to play through 640. It really isn't
14 relevant until about 140, but I think it might just be easier to
15 play it from the beginning and let it go.

16 THE COURT: All right.

17 (Call playing.)

18 BY MR. BUDLOW:

19 Q So that was you who said I haven't heard yet, I haven't
20 heard anything, right?

21 A Yes, what I told her.

22 Q Okay. And then you mentioned that you might have learned
23 some other way. Your Honor, Government's Exhibit M-10, which I
24 believe was submitted prior to the last proceedings, I can
25 certainly submit a copy of, I don't need to approach the

1 defendant. I'll just tell the Court what it reflects. This is
2 the visitor log. And it shows that the last visit prior to June
3 25th was in January of 2016. And then it was by an individual
4 named Marina Yelizarov.

5 And just for the record, Mr. Yelizarov, could you tell
6 us who Marina Yelizarov is?

7 A Marina's my mother.

8 Q So, in fact, you didn't have any visits prior to this call
9 with Ms. Braun, did you?

10 A I guess not, if that's what you're saying.

11 Q So after this call with Ms. Braun, you didn't call Robert
12 Waldman and say, what's this I hear about a murder, I thought you
13 said they promised not to charge me?

14 A Robert Waldman was no longer on my phone list.

15 Q Right. But you had the ability to add and subtract from
16 your phone list so --

17 A No.

18 Q -- the question is, did you make any attempt to call Mr.
19 Waldman and say, what's going on?

20 A No, I did not at the time.

21 Q Okay. You do have pen and paper there, right? In fact, you
22 file written pleadings in all of your cases quite regularly,
23 don't you?

24 A I don't know about quite regularly. But as of 2017 to 2018.
25 This was post-ECI days. So let's not put it like that.

1 Q Let's put it this way. Did you try to write Mr. Waldman?

2 A No. I don't really write attorneys. I try to speak to them
3 on the phone.

4 Q So, in fact, just to be clear, even after you learned about
5 the indictment, you never contacted Robert Waldman, did you?

6 A No, I don't believe I did.

7 Q And at that moment in time you had no lawyers for any cases,
8 did you?

9 A At that moment in time, no.

10 Q Later you had a lawyer for your initial appearance in
11 federal court in what we're calling either the murder or the
12 Judge Garbis case, right?

13 A Yeah, Lawlor.

14 Q And that was Michael Lawlor, right?

15 A Correct.

16 Q And you have since fired him, correct?

17 A Correct.

18 Q And you filed a 2255, correct?

19 A Correct.

20 Q In fact, he testified at a hearing on your motion to
21 withdraw the guilty plea in the murder case, didn't he?

22 A Yes.

23 Q And you never told Michael Lawlor that the murder case that
24 he was representing you on was promised not to be indicted?

25 A Of course I did. That's why we filed the 2255.

1 Q But it doesn't say in the 2255 that the government breached
2 a promise not to prosecute you, does it?

3 A I don't know how Mr. Lawlor filed it. Once again, wasn't an
4 attorney at the time, wasn't learned in any way.

5 Q And Mr. Lawlor represented you throughout the guilty plea,
6 correct, in the murder case?

7 A Correct, yeah.

8 Q And prior to the guilty plea there was some motions filed,
9 right?

10 A Yeah, he filed a few motions, yeah.

11 Q Okay. And those were litigated. In fact, there was a
12 hearing, correct?

13 A There was one hearing about Facebook, Facebook pictures and
14 verses of songs, and he didn't know what to do with that.

15 Q To be clear, at the hearing and in the written filings, it
16 never says this entire prosecution shouldn't happen because the
17 government promised not to bring it? You agree that didn't come
18 up, right?

19 A I don't believe it did.

20 Q All right. And again, after your guilty plea, you filed a
21 motion to withdraw the guilty plea, right?

22 A Correct.

23 Q And you later filed a 2255 relating to Mr. Lawlor, right?

24 A Correct.

25 Q And you said that Mr. Lawlor was ineffective, in general,

1 correct?

2 A Correct.

3 Q And one of your complaints was that he didn't meet with you
4 enough?

5 A This is factual. He didn't see me two months -- no.

6 Q My question is, did you, did you claim in your motions that
7 one of the issues you have was that he didn't meet with you
8 enough?

9 A Yes.

10 Q And did you also say that he didn't file enough motions?

11 A Yes, several motions.

12 Q And in his motions that he filed, you've already said they
13 didn't relate to the murder shouldn't have been brought because
14 of a breach of an agreement, right?

15 A I didn't know I could do that.

16 Q All right. Now, when you later filed your 2255 complaining
17 about Michael Lawlor, nowhere in those pleadings did you say he
18 failed to file a motion about this breach of the promise by the
19 government not to bring this case. You didn't claim that, did
20 you?

21 A Didn't know that it was a thing.

22 Q Well, you knew a lot of things were things because they were
23 pro se. You filed whatever you wanted, didn't you?

24 A No, I did not. I filed what I knew to the best of my
25 ability, what I was learning.

1 Q And if we back up to the motion to withdraw the guilty plea,
2 you had a lawyer in that case, right?

3 A Sorry? To the what?

4 Q Chris Davis represented you in your motion?

5 A Yeah, Mr. Davis.

6 Q In your motion to withdraw the guilty plea, right?

7 A Yeah.

8 Q And would you agree that nowhere in the record on the motion
9 to withdraw the guilty plea did you claim or Mr. Davis claim that
10 the entire prosecution was a violation of what you were promised
11 in this case?

12 A The only thing that he raised was the fact that the federal
13 government had no jurisdiction, and that was it.

14 Q Well, there was a lot of discussion in the pleadings and in
15 the hearing about Mr. Lawlor's ineffectiveness, correct?

16 A Yeah. There was some vague -- yeah.

17 Q Well, you testified as well, didn't you?

18 A Yeah.

19 Q And when you testified and when you filed your pleadings, do
20 you agree that nowhere in the motion to withdraw the guilty plea,
21 in any of that, was there a claim by you or your lawyer that the
22 entire prosecution was a violation of this agreement?

23 A I guess so.

24 Q Now, you later signed an agreement --

25 A I don't know nothing about it.

1 Q -- and in fact pled guilty under oath to the execution-style
2 murder of Wayne Ruder, didn't you?

3 A I believe Lawlor said that we agreed to certain facts and
4 not to all the factual, or all the stipulated facts that you put
5 in your plea agreement.

6 Q Right. And so my characterization to execution-style
7 notwithstanding, you didn't dispute the number of times Mr. Ruder
8 was shot in the head, did you?

9 A I don't know how many times he was shot in the head. I
10 didn't know that I could, once again.

11 Q My question was, that was not in dispute, was it?

12 A I don't think so. Not by Lawlor at least, no.

13 Q And you went to a hearing to plead guilty to that crime in
14 open court under oath, right?

15 A Yeah. The week of the trial.

16 Q And to be clear, nobody at that hearing said anything about
17 the breach in bringing this murder investigation, that had
18 breached this agreement, right?

19 A I didn't know that I could. Lawlor did not.

20 Q We understand you didn't know you could. The question is,
21 was it brought up or wasn't it?

22 A Lawlor did not. Lawlor did not.

23 Q All right. Lawlor didn't. And then when you were sentenced
24 and Chris Davis represented you, at that hearing you didn't say
25 anything at the sentencing hearing that the whole prosecution was

1 a breach, did you?

2 A I'm pretty sure I stated that, just in a different way.

3 Q How did you say it?

4 A In regards to saying that Waldman told me there wasn't going
5 to be any further prosecutions.

6 Q Your testimony today --

7 A That there was no jurisdiction for the federal government.
8 I stated that. I wrote a letter.

9 Q Let's take the first thing you said. Is it your testimony
10 that under oath at the sentencing hearing -- sorry. Your
11 testimony here today is that while under oath at the sentencing
12 hearing you claimed that you were promised you wouldn't be
13 prosecuted for the murder? You know there's a transcript of
14 that, right?

15 A At the sentencing hearing I believe I read a letter, if you
16 recall. Right before I got sentenced, I read a letter. And I
17 believe I mentioned something about that.

18 Q You believe you mentioned it?

19 A It's a little while ago.

20 Q This was a while ago. It wasn't --

21 A I don't have the paperwork --

22 THE COURT: Wait. Wait.

23 A -- something that I would remember.

24 THE COURT: Wait. Whoa, whoa. Only one person can
25 talk at a time. So, let the witness finish his answer. What's

1 your answer?

2 THE WITNESS: Once again, I don't remember exactly. I
3 don't recall it because I don't have the transcripts. But I do
4 vaguely recall addressing that in the letter that I read to the
5 judge before sentencing.

6 BY MR. BUDLOW:

7 Q To be clear, when you say "addressing that", what did you
8 say about the murder case -- I'm sorry -- about the promise in
9 this case at your sentencing?

10 A That I wasn't supposed to be prosecuted or indicted. That's
11 what Waldman told me. I'm pretty sure I said that.

12 Q So you're pretty sure you said it or maybe you're not sure
13 at all?

14 A Pretty sure I said it.

15 THE COURT: Who did you say that to?

16 THE DEFENDANT: That was right before I got sentenced,
17 to the judge. I read a letter to the judge that I wrote right
18 before I got sentenced, and how my case was mistreated. And I
19 believe I stated something vaguely in regards to how I was told
20 that I wasn't going to be prosecuted for any kind of homicide. I
21 wasn't going to be indicted for any kind of homicide.

22 BY MR. BUDLOW:

23 Q You think you said that vaguely in some regards? That's
24 your testimony today?

25 A Correct.

1 Q Do you have a copy of that letter?

2 A No, I don't have any legal work other than what I've been
3 provided by Ms. Englert. It was destroyed at Jessup.

4 Q Would you agree that, aside from what you did or didn't say
5 at the hearing, that your lawyer, who was fighting for the least
6 possible sentence for you at the murder sentencing, did not raise
7 the fact that this was some breach of this agreement not to
8 prosecute?

9 A No, I don't believe Mr. Davis did.

10 Q And he didn't put it in any of his sentencing filings,
11 either?

12 A I do not believe Mr. Davis did.

13 Q And that murder sentence -- but you only got 20 years,
14 right?

15 A Yes. Right.

16 Q That sentence, the whole case was sent up on appeal to the
17 Fourth Circuit, right?

18 A I believe, yeah, Mary Davis filed it. She filed something.

19 Q And she met with you prior to filing it, right?

20 A No, she did not meet with me whatsoever.

21 Q You never met with either Mr. Davis relating to the appeal?

22 A No. Mr. Davis -- no -- me and Mr. Davis never discussed the
23 appeal. Mrs. Davis is the one that got appointed by the court to
24 file the appeal.

25 Q His wife?

1 A Yes, his wife.

2 Q Is it your testimony that she never once met with you prior
3 to filing that appeal?

4 A I have no idea what she looks like.

5 Q You've seen the appeal, correct?

6 A Yes. She sent me a copy.

7 Q And would you agree that this alleged breach of this
8 agreement is not referenced in the appeal at all?

9 A I don't believe it is.

10 Q And that's because you never told either Mr. or Mrs. Davis
11 about any of this, did you?

12 A No, of course I did. There are phone calls that should be
13 recorded that have that.

14 Q Well, we listened to a lot of recorded phone calls, Mr.
15 Yelizarov. We do not listen to the phone calls that you have
16 with your attorney.

17 Court's indulgence.

18 THE COURT: Sure.

19 BY MR. BUDLOW:

20 Q Just a couple places of maybe daylight, if you will, between
21 your and Mr. Waldman's testimony. It's your testimony that you
22 never said to him, I wasn't worried about it, the murder case?

23 A Never said that.

24 Q And it's your testimony that you never told him that they
25 would never prove it, right?

1 A Never said that.

2 Q You never said those people won't testify against me?

3 A What people?

4 Q Kirill, Alina, Marat, Igor, Michelle.

5 A All of those people are already indicted or unindicted
6 cooperators. So I would never say that they wouldn't testify
7 against me.

8 Q Mr. Yelizarov, are you aware that both indicted
9 coconspirators and unindicted coconspirators can testify and
10 juries can believe them?

11 A They can believe them and they can be questioned. Some of
12 them are promised something. Some promise no indictments. Hence
13 why they would tell your story.

14 Q Right. But you know that those can lead to convictions?

15 A Sure.

16 Q All right. It's your testimony that you didn't say to Mr.
17 Waldman that Michelle, your romantic interest, would never
18 testify against you?

19 A I would never say that. She's called the police on me
20 several times, lied on me several times. And I actually already
21 knew that she was cooperating with you. Hence why you guys
22 didn't indict her for any crimes.

23 Q That was her that was on the jail call with you, right?

24 A Correct.

25 Q And she couldn't call you at jail, could she?

1 A No.

2 Q How did that call actually happen?

3 A I call out.

4 Q Oh, you called her?

5 A I call out.

6 Q You called her?

7 A I call out, yes. I pick up the phone and I call out whoever
8 I call.

9 Q You dialed Michelle Braun's phone number?

10 A Correct.

11 Q Many, many times, right?

12 A She was one of the people that I called, sure.

13 Q All right. And you mentioned that when you first met with
14 Mr. Waldman, you said that you wanted to go to trial because all
15 of the testimony, all of the evidence was I think you said
16 circumstantial and the coconspirators and unindicted
17 coconspirators. You're aware that it also included recorded jail
18 calls?

19 A Yeah.

20 Q There was a period of time when you were incarcerated and
21 Mr. Yasinov was home on home detention, right?

22 A Correct.

23 Q And there were a lot of recorded jail calls between the two
24 of you relating to the investigation and people who were being
25 served with subpoenas and whatnot?

1 A Yeah, I believe we had a few talks about people being
2 questioned and approached by your office and Baltimore County.

3 Q But that was part of what Mr. Waldman told you the evidence
4 consisted of, right?

5 A Yes, sir. For the Hobbs Act case, correct.

6 Q In addition to eyewitnesses who were present with you and
7 were going to say that you were there when Alex Voskovsky's car
8 was pulled over. You knew they were going to say that, right?

9 A I believe I was provided with certain testimonies for
10 codefendants were saying that, yeah.

11 Q And you knew that they were going to say that the whole plan
12 took months, right?

13 A I don't believe it stated anything like that.

14 Q And you knew that they were all going to say that it was all
15 your idea?

16 A No, I did not know that. But I knew from the indictment
17 that I was number one and apparently some kind of mastermind, as
18 your office stated.

19 Q That's all I have, Your Honor. I don't want, I don't want
20 to presume, in light of the timing -- I don't know the break
21 situation -- I would ask that maybe Mr. Murtha could testify
22 before any redirect just so we can get him out. Or we can also
23 consult with him to see if he minds waiting.

24 THE COURT: Well, let me see if anybody needs a quick
25 recess. I don't. But if anybody does, this is the time to tell

1 me.

2 We're going to take a five-minute recess.

3 MR. BUDLOW: Great. And we'll consult with Mr. Murtha
4 and figure that out.

5 THE COURT: That's fine. Okay. As soon as everyone's
6 ready, let me know. We'll stand in recess.

7 (Recess at 12:02 p.m.)

8 (Proceedings resume at 12:17 p.m.)

9 THE COURT: I see Mr. Murtha here. Seems to be a
10 frequent visitor these days, Mr. Murtha. Are you going to
11 interrupt the testimony, as you were saying?

12 MR. BUDLOW: Yes. Thank you, Your Honor.

13 THE COURT: Okay.

14 MR. BUDLOW: Appreciate it. At this time the
15 government calls Joseph Murtha.

16 THE CLERK: Remain standing and raise your right hand.

17 JOSEPH MURTHA, GOVERNMENT'S WITNESS, SWORN

18 THE WITNESS: I do.

19 THE CLERK: You may have a seat. And can you please
20 state and spell your full name for the record?

21 THE DEFENDANT: Joseph Murtha. J-O-S-E-P-H.
22 M-U-R-T-H-A.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MR. BUDLOW:

1 Q Mr. Murtha, if you could, just very briefly tell us what you
2 do for a living, how long you've been a criminal defense
3 attorney, and where you practice.

4 A I've been practicing law in the State of Maryland since
5 1990. I've been admitted to the federal bar since 1995. The
6 first five-plus years of my career I was a prosecutor in the
7 Office of the State's Attorney for Howard County. I then became
8 an associate at the firm of Irwin, Kerr, Green, McDonald and
9 Dexter, where I was an associate to Dave Irwin.

10 I then started federally or being involved
11 substantively in federal cases. And since that time I have been
12 involved exclusively in representing people in state and federal
13 courts in criminal cases.

14 Q Okay. And do you handle a significant amount of federal
15 violent crime in the District of Maryland?

16 A I do. I tried, I believe, every potential type of violent
17 criminal act in federal court, including actually the last death
18 penalty case that was tried in this district from 2008.

19 Q And you're familiar, in referencing the 2015 to 2016 time
20 frame, are you familiar with the bench in Baltimore?

21 A Absolutely. I have practiced and appeared regularly since
22 1995 in this courthouse.

23 Q Mr. Murtha, did there come a time when you were contacted by
24 the family of the defendant. The defendant is Stanislav or
25 Steven Yelizarov. Were you contacted by his parents?

1 A I was.

2 Q And do the names Marina and Zarakh Yelizarov sound familiar
3 to you?

4 A They do.

5 Q And, roughly, was this in the fall of 2015?

6 A Although I don't have notes and I can't specifically
7 identify when, that is around the time from looking at the, the
8 time frame of the, of where I was in my practice. And I have
9 vivid memories of meeting with his mother. She was a very dear
10 woman and very kind person. And I met with his father. And I
11 believe I even met with either his cousin or his uncle. I can't
12 recall what the relationship was.

13 Q And were those meetings that you just referenced in person
14 in your office?

15 A They were.

16 Q Okay. And do you recall whether or not you were paid in any
17 way, retained for your services?

18 A I looked to see if I had any file at all. We had merged
19 with another firm. I don't have anything. I can't tell you
20 whether I was or I wasn't. If I was retained, it was for a
21 limited basis of consulting with the family and also with Steven.

22 Q And can you describe what that limited basis was?

23 A There was a concern because the gravity of the offense,
24 whether or not any plea agreement would be an appropriate way to
25 resolve the case. He was represented by Mr. Waldman and I

1 believe it was a CJA panel case. And I was asked to discuss the
2 nature of the offense and the options that were available.

3 And there was obviously a very great concern by his
4 parents of what the outcome of the case could be, either by way
5 of a negotiated plea or by proceeding to trial.

6 Q And did you reach out to Mr. Waldman at some point?

7 A I did.

8 Q And did he provide you, on a telephone call, with his
9 summary of the case?

10 A Yes.

11 Q And did he gave you any documents?

12 A I know at some point I had a copy of a plea agreement. I've
13 been made aware that there were two, I believe. I can't tell you
14 which plea agreement I reviewed.

15 Q And did there come a time when you met with the defendant,
16 Stanislav Yelizarov?

17 A I did.

18 Q And do you remember where that was?

19 A It was a detention facility. Without notes, I can't tell
20 you the specific facility.

21 Q In Maryland?

22 A Yes, in Maryland.

23 Q Department of Corrections? And did you meet with him on one
24 occasion or more than one occasion?

25 A I do not know the answer to that question.

1 Q And did you review the nature of the plea agreement?

2 A I did.

3 Q And did you review the facts?

4 A Yes.

5 Q And did you get a sense from your discussion with Mr.
6 Waldman what the basis of government's proof was?

7 A Yes.

8 Q And would it refresh your recollection that the plea
9 agreement you reviewed had a government cap of 40 years?

10 A I believe we were in the hallway. The first number I
11 mentioned was 40. So that is my recollection, that there was a
12 cap of 40 years.

13 Q And when you met with the defendant, did you provide him
14 with advice as to sort of how to proceed?

15 THE COURT: Did he what?

16 Q Sorry. Did you provide him with any advice about how to
17 proceed?

18 A Well, one of the things I was careful about is -- and it was
19 with his consent that I was speaking with him because I thought
20 he was well represented. I have a lot of respect for Mr.
21 Waldman, he had been practicing for quite sometime. And it was
22 more of a second opinion in regard to the resolution of the case.

23 I became familiar with the facts of the case. I was
24 aware of the details. They had been brought to my attention.
25 And discussed in general terms, and oftentimes one of the things

1 that we discuss is the percentage of cases that go to trial in US
2 district courts that end up being convictions, and how in federal
3 cases their resources that are used and the investigative
4 techniques and efforts that are put in are much better than or,
5 actually, I would say, more extensive than those that are put in
6 state cases. And I'm sure we had a general conversation that
7 going to trial could very likely produce a worse result. Despite
8 the fact that 40 years is an incredibly stifling number, it could
9 even get worse.

10 Q And is that based on your review of the stipulated facts or
11 the draft stipulated facts?

12 A Yes.

13 Q And in the end, what was your advice to Mr. Yelizarov in
14 terms of proceeding with counsel?

15 A I recommended he not retain, or his family not retain
16 private counsel and that he continue to be represented by Mr.
17 Waldman.

18 Q And Mr. Murtha, were you, when I reached out to you about
19 this, did I ask you to check for any notes that you might have
20 relating to your meetings with the family or the defendant?

21 A You did.

22 Q And do you have any?

23 A I searched and I have none.

24 Q And I haven't asked you about this, but did your knowledge
25 of the case at the time go beyond the facts in the stipulation or

1 did you, were you aware at that time of mention of an earlier
2 murder?

3 A I can't recall. And I was aware that there was a, that
4 there was backup time that either was being served or was to be
5 served by Judge Norman in Baltimore County Circuit Court. I
6 became aware of murder, but I know I did not know the details of
7 the murder. So -- and the reason being is because I know Michael
8 Ruder, who was the nephew of the victim and who came upon his
9 uncle's body. If I had known the details of it, I know, I don't
10 know what effect it would have had, probably none, but I would
11 have recalled that specific fact pattern.

12 Q And so in the end you did not join the case or enter your
13 appearance or represent Mr. Yelizarov in any way?

14 A That is correct.

15 Q And did you relay that information to his family?

16 A I did. I met with his mother probably at least once or
17 twice after that. As I said, I mean, she was an incredibly kind,
18 conscientious woman, very sad that her son was in this situation.
19 I had a lot of respect for her.

20 Q Were you made aware by Mr. Waldman that he told me that you
21 were kind of providing a second opinion and consulting the
22 defendant?

23 A Yes.

24 Q And did you notify him your position with respect to hiring,
25 with respect to not being hired by the family and by the

1 defendant?

2 A Yes.

3 Q Thank you for being here today. That's all I have, Your
4 Honor.

5 THE COURT: Could you, Mr. Murtha, just clarify for me?
6 I may have misunderstood. What knowledge did you know or have
7 about the fact that there was a murder investigation ongoing?

8 THE WITNESS: I think that's the extent of what I knew,
9 Your Honor. That there was a murder investigation ongoing, but
10 no details at all.

11 THE COURT: So you didn't know any details, but are you
12 saying that when you met with Mr. Yelizarov that you were aware
13 of this murder investigation?

14 THE WITNESS: I believe I was, Your Honor.

15 THE COURT: Okay. And do you remember any conversation
16 about it and its potential significance with, in discussions with
17 Mr. Yelizarov?

18 THE WITNESS: I do not, Your Honor.

19 THE COURT: Do you even know if you talked about it?

20 THE WITNESS: I know -- I have no recollection of
21 speaking about it, Your Honor. I remember the focus was on the
22 alleged robbery and the facts that were associated with the
23 proposed plea.

24 THE COURT: Okay.

25 THE WITNESS: In regard to the robbery case.

1 THE COURT: And just, you may have said this, too, but
2 let me just be sure I got it right. How did you learn about the
3 murder investigation?

4 THE WITNESS: In the time -- the time frame's a little
5 unclear, Your Honor, because I don't have notes. Whether I found
6 out about it in conversations with Mr. Budlow or Mr. Waldman, I
7 can't tell you.

8 THE COURT: Okay. But you believe you knew about it
9 when you met with Mr. Yelizarov?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: Okay. Thank you. Cross examine.

12 CROSS EXAMINATION

13 BY MS. ENGLERT:

14 Q Mr. Murtha, so following up with what Judge Hollander said.
15 You believe you were aware of this murder at the time you met
16 with Mr. Yelizarov? Is that what you're testifying to?

17 A It's unclear, but I believe I was aware that there was a
18 murder investigation. I know that there hadn't been any charges.
19 But I believe that I was aware that there was an ongoing
20 investigation.

21 Q And was that investigation targeting Mr. Yelizarov?

22 A I believe that he was a person of interest or a suspect at
23 that time.

24 Q And you didn't discuss this in the context of reviewing with
25 him this plea agreement?

1 A The answer is no. My limited role, as I understood it,
2 because there were no pending charges where there was an
3 accusation or a charge of murder, was, and I don't mean "simply"
4 to diminish the seriousness of the offense, but it was simply to
5 review the nature of the plea agreement, review the nature of the
6 underlying facts, and make a determination whether I thought that
7 I could offer assistance that was not being offered by Mr.
8 Waldman.

9 Q So you have no recollection of discussing the impact of the
10 murder investigation on the plea agreement.

11 A That is correct.

12 Q How long was your meeting with Mr. Yelizarov?

13 A I do not know the answer to that but -- I mean, it would
14 have been an hour, two hours. Whatever time was needed because
15 it was, whatever questions he would have had, whatever
16 information was needed, I was there for the extent of time that
17 was desired.

18 Q And so your primary -- so Mr. Waldman did not, was not the
19 person who contacted you to give Mr. Yelizarov a second opinion?

20 A That is correct. Yes.

21 Q It was his family who contacted you, correct?

22 A That is correct.

23 Q And it was -- they contacted you to see if you would, could
24 be a replacement for Mr. Waldman, isn't that right?

25 A That is correct.

1 Q And at the, after you just had your discussion with Mr.
2 Yelizarov, is it your recollection that the plea agreement that
3 you were reviewing with him had a 40-year cap?

4 A That is my recollection.

5 Q Okay. And at the end of your meeting isn't it correct that
6 you recommended that Mr. Yelizarov stick to Mr. Waldman as his
7 counsel?

8 A Yes.

9 Q And to follow Mr. Waldman's advice?

10 A Well, I don't know whether I specifically said that. I
11 think my, the answer would have been yes, maintain Mr. Waldman, I
12 respect him as a lawyer, if this is what he advises you, I would
13 seriously consider taking his advice.

14 Q No further questions.

15 THE COURT: Any redirect?

16 MR. BUDLOW: No. Thank you, again.

17 THE COURT: Mr. Murtha, that means that the testimony
18 is concluded. Thank you very much --

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: -- for taking the time to come in. You are
21 excused.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: So we can resume with -- we're ready for
24 the redirect.

25 MR. BUDLOW: Yes. Thanks again, counsel, for allowing

1 us to interrupt.

2 STANISLAV YELIZAROV, DEFENDANT WITNESS, PREVIOUSLY SWORN

3 REDIRECT EXAMINATION

4 BY MS. ENGLERT:

5 Q Mr. Yelizarov, I'd like to start with the notes that Mr.
6 Budlow showed you. These are handwritten notes from Mr.
7 Waldman's file. Do you recall those notes?

8 A Yes.

9 Q Do you recall looking at them --

10 A Yeah.

11 Q -- when they were up on the screen? And those, do you
12 recall that those notes had some names in the margin?

13 A They had names of the indicted and unindicted coconspirators
14 from the outside case.

15 Q Did you provide those names to Mr. Waldman?

16 A Just one or two of the, one or two of the names.

17 Q Did you tell Mr. Waldman that these were people that you had
18 told, had confessed the murder to?

19 A No. I told him I believed that these people know about it
20 and were possibly involved.

21 Q Do you recall that there were some notes about Wayne's
22 Antiques? Did you provide details about this murder to Mr.
23 Waldman?

24 A No, I did not.

25 Q Do you know when Mr. Waldman wrote these notes?

1 A I have no idea.

2 Q Do you know where Mr. Waldman got this information?

3 A I have no idea.

4 Q I'd also like to point you to the email that the government
5 had put up on the screen. Do you recall that there was an email
6 from Mr. Bud -- sorry -- from Mr. Waldman addressed to me as your
7 lawyer?

8 A Yeah. The redacted version?

9 Q Yes.

10 A Yes.

11 Q And did you, were you able to look at the unredacted version
12 of it?

13 A Yeah, today.

14 Q The unredacted version of it do you recall had some
15 information about a cooperating witness?

16 A Yes.

17 Q You don't need to say the name of that person.

18 A Yes.

19 Q Did you discuss, have a discussion with Mr. Waldman about
20 the details in that email? Did you give those details to Mr.
21 Waldman?

22 A Not those exact details, no, I did not.

23 Q Do you know where Mr. Waldman got that information?

24 A I'm not sure. Either from the government --

25 Q Do you know where Mr. Waldman got that information?

1 A No, I have no idea.

2 Q In deciding whether or not to plead guilty -- well, let
3 me -- in deciding whether or not to agree to a plea agreement, is
4 the amount of time that you're likely to receive, the amount of
5 imprisonment that you're likely to be sentenced to, is that a
6 factor in your decision?

7 A Yeah, of course.

8 Q Is your guilt, when you are weighing your options, is your
9 guilt or innocence the only factor in whether or not you're going
10 to take the plea agreement?

11 A No.

12 Q How important is it, the amount of time that you might have
13 to be imprisoned?

14 A I'd say it's very important because it's, you know, it's a
15 factor whether you make it out of prison or not. Whether you
16 benefit from the agreement.

17 THE COURT: But let me ask you this, because at a
18 guilty plea proceeding, you make statements under oath. So, I'm
19 not sure what you're telling me.

20 Are you saying that you would say under oath that you
21 did something even if you didn't in order to get a disposition
22 that you thought was a good one?

23 THE DEFENDANT: Not exactly. Just from what evidence
24 and what witnesses were presented. Because sometimes people get
25 up here and say whatever they need to say to save their skin and

1 not be indicted, as at least five people from the Hobbs Act case
2 weren't indicted with anything whatsoever. So apparently, as Mr.
3 Budlow said, their testimony is enough to get a jury to convict
4 you.

5 So even if you're not guilty, what can you do when an
6 attorney is telling you, hey, man, there's nothing I can do for
7 you? So what's the point of going to trial with an attorney that
8 can't represent you, that has no winning record of any kind at
9 trials? You weigh your options and you go with what you got.
10 There's plenty of people that plead guilty that weren't guilty
11 before. And they'll do it again, I'm sure.

12 BY MS. ENGLERT:

13 Q Mr. Yelizarov, you, in fact, pled guilty in this robbery
14 case before Judge Motz?

15 A Correct.

16 Q And if you had known that the government was likely to
17 prosecute you for murder after you were sentenced in this robbery
18 case, what difference would that have made in your decision to
19 plead guilty to the robbery?

20 A I wouldn't have pled guilty. I would have went to trial.
21 Because at the same time when I did take that guilty plea, it
22 would also be credibility to those unindicted and indicted
23 coconspirators. And they were used again in the homicide case.
24 So I would have went to trial 100%.

25 Q And how much reliance did you put on Mr. Waldman in

1 deciding, in interpreting that plea agreement?

2 A At that time, 2015, early 2016, my full confidence was with
3 him because I didn't know anything about the law. I truly wasn't
4 learned in any way. I didn't study. So I followed his advice to
5 the T.

6 Q What did Mr. Waldman say about further prosecutions?

7 A He said that there wouldn't be any further prosecutions, no
8 further indictments, after I took the 30 year (C) plea.

9 Q Did you believe what he told you?

10 A Absolutely.

11 Q No other questions.

12 MR. BUDLOW: May I briefly, Your Honor?

13 THE COURT: Recross.

14 RE CROSS EXAMINATION

15 BY MR. BUDLOW:

16 Q So you say that people say things under oath all the time to
17 save their skin, right?

18 A Absolutely.

19 Q All right. And, in fact, I believe that you're saying that
20 if the deal was good enough, you'd have pled guilty to anything?

21 A No, that's not what I'm saying at all.

22 Q If the deal was good enough, would you have pled guilty to
23 the murder?

24 A I would have weighed my options at the time.

25 Q Would one of the options been pleading guilty? You've been

1 asked that question now about four times, including by Judge
2 Hollander. Would, if the deal was good, if the options were
3 things that you liked and you thought you were going to be
4 convicted, would you plead guilty to the murder to get the right
5 sentence?

6 A It's a possibility. Once again, it's not something that you
7 can answer without being presenting, presented with the
8 evidence --

9 Q So you're saying --

10 A -- presented with the fact that you're going to get
11 indicted. So you're telling me to answer a hypothetical
12 question.

13 Q So there's a chance, you're saying, that you would plead
14 guilty under oath to a crime that you didn't commit to save your
15 skin, wouldn't you?

16 A If the attorney couldn't represent me properly, and those
17 witnesses that you had, apparently which had a lot of weight, and
18 you didn't indict at least five of them, for their cooperation,
19 yeah, what other choice would you have?

20 Q So under those circumstances, you would admit to things
21 under oath that weren't true, under those circumstances, right?

22 A If I had no other options. If the attorney couldn't
23 represent me, what choice do you have other than to plead guilty?

24 Q And that oath that you would have taken when pleading
25 guilty, to tell the truth under the penalties of perjury, is the

1 same oath that you took when you swore out that affidavit about
2 Mr. Waldman, what he did and didn't tell you, isn't it?

3 A What Mr. Waldman did and didn't tell me?

4 Q Right. About the murder.

5 A It's the same, yes, it's the same.

6 Q The oath that you say that you would have violated if you
7 got the right deal on the murder charge is the same oath that you
8 took today when you're saying to this Court under oath that Mr.
9 Waldman promised you that the government said they wouldn't
10 prosecute for murder. It's the same oath, isn't it?

11 A I'm not saying that exactly. I'm saying I would weigh my
12 options.

13 Q Are you weighing your options right now in trying to save
14 your skin?

15 A I'm not trying to save my skin. I'm giving you the truth
16 about what happened. And that's just what it is.

17 Q But it wouldn't be the truth if the deal was good enough.
18 Then you'd say something different, wouldn't you?

19 A No, I wouldn't.

20 MR. BUDLOW: Nothing further.

21 THE COURT: Anything else?

22 MS. ENGLERT: No, Your Honor.

23 THE COURT: Thank you, sir. You may step down.

24 Do you have any experts, Ms. Englert, who are going to
25 address whether somehow the performance of Mr. Waldman fell below

1 the standard of care, so to speak?

2 MS. ENGLERT: I am not prepared today with any experts.

3 THE COURT: Okay. Is there any other evidence?

4 MS. ENGLERT: No, Your Honor.

5 THE COURT: Any evidence from the government?

6 MR. BUDLOW: Your Honor, just -- no, there's no other
7 evidence. I believe that the documents that I have filed
8 previously and submitted at the last hearing and today are, are
9 the evidence, as well as the testimony.

10 THE COURT: Okay. So what I was going to suggest, if
11 the evidence is closed, is that perhaps counsel would like to
12 file post-hearing submissions. And I would suggest simultaneous
13 filing, and then simultaneous reply, so both sides can file on
14 the same day. That saves time. You've already filed other
15 submissions, anyway. But this would allow you to incorporate the
16 evidence that's been educed and then address it.

17 So, what amount of time would you all like? I don't
18 know if you plan to get the transcript, and then that would
19 affect the amount of time you need. I'm happy to accommodate
20 your request. I just need you to give me an idea.

21 MR. BUDLOW: Well, certainly, if the Court wants
22 supplemental filing, I'm going, I'm going to file it.

23 I think that the evidence is fairly clear or stark,
24 depending on how you want to view it. And I would say if the
25 defense isn't planning on filing anything, then I don't believe

1 that the government will, either.

2 THE COURT: Okay. It's up to you.

3 MR. BUDLOW: I would leave it up, I guess, then up to
4 the defense. Certainly, if they're going to file something, I'm
5 going to want to file as well.

6 I think, I would have suggested that the defense file
7 first since it's their motion. But if the Court wishes to have
8 simultaneous briefing, then I will comply.

9 THE COURT: I just thought it would save time. Then
10 we'd only have one round -- two rounds.

11 MR. BUDLOW: I actually love the idea for sentencing.
12 I think that's a great idea. But that's not what we're
13 discussing.

14 THE COURT: But it saves time. And it eliminates one
15 filing when we've already had quite a few. That was my
16 reasoning. But I'm happy to accommodate your preferences.

17 Let me start with you, Ms. Englert. Do you wish to
18 file anything?

19 MS. ENGLERT: I would be happy to file, file something.
20 I would like to first have the transcript, though.

21 THE COURT: Okay. So, I don't know how long that would
22 take, if somebody places an order for the transcript.

23 MS. ENGLERT: I guess --

24 THE COURT: It's not a very long hearing so it
25 shouldn't take very long. So how much time would -- let's go

1 from how much time you think you would like. From whenever you
2 get the transcript, I'll add two weeks, three weeks? What would
3 you like?

4 MS. ENGLERT: Thirty days after.

5 THE COURT: Thirty days after you get the transcript?
6 Okay. So, then the supplemental filing of the defense --

7 MS. ENGLERT: I guess -- yeah. I have another large
8 filing right around then. I guess maybe 45 days to accommodate
9 the transcript in the case.

10 THE COURT: How long?

11 MS. ENGLERT: 45 days?

12 THE COURT: So that's why I want it to be simultaneous,
13 then. Because that's going to cause another two weeks after
14 that, at the earliest.

15 So, then, if you want 45 days, I would suggest
16 simultaneous filings, 45 days after.

17 MR. BUDLOW: I'm sorry? Are we saying 45 days after
18 the transcript is received?

19 THE COURT: Yes. And then we could do replies, which
20 would also be simultaneous. Two or three weeks later. Whatever
21 you want. Two weeks, three weeks?

22 MR. BUDLOW: I'll be honest with Your Honor. It's just
23 very -- not knowing when the, when we're starting the counting
24 and looking at my trial schedule, it's hard to say. But what I
25 will say for sure is that if I need a delay for any reason, I'm

1 not going to wait until the defense files. I will reach out to
2 Ms. Englert so we still can file simultaneously.

3 THE COURT: Okay. Why don't we -- 45 days plus two
4 more weeks for replies puts us at two months from whenever the
5 transcript is, which is a lot. So why don't we say two weeks?
6 The replies are due 14 days after the supplemental submission.
7 And then would you like oral argument?

8 MR. BUDLOW: Not on behalf of the government, Your
9 Honor.

10 MS. ENGLERT: I think the written submissions, two
11 written submissions are probably sufficient.

12 THE COURT: Okay. So then the question will be whether
13 when I read them if I have questions, I'll get in touch with you
14 and we'll set something up. But right now I'm hearing that there
15 is no request for oral argument. We'll just go with the written
16 submissions.

17 Okay. So we'll plan on a -- somebody's going to order
18 the transcript. I don't know who that is. And then the
19 supplemental simultaneous briefing due within 45 days after the
20 transcript is received. And simultaneous replies 14 days later.

21 Did somebody want to volunteer to give me an order?

22 MS. ENGLERT: I'm happy to do it.

23 THE COURT: Okay. We'll look for that order.

24 Okay. Well, thank you very much. I think that
25 concludes everything.

1 And we are resuming at two, is that right? We'll stand
2 in recess.

3 MR. BUDLOW: Thank you, Your Honor.

4 (Conclusion of Proceedings at 12:47 p.m.)
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REPORTER'S CERTIFICATE

I, Mary M. Zajac, do hereby certify that I recorded stenographically the proceedings in the matter of USA v. Stanislav Steven Yelizarov, Case Number(s) ELH-15-261, on February 22, 2022.

I further certify that the foregoing pages constitute the official transcript of proceedings as transcribed by me to the within matter in a complete and accurate manner.

In Witness Whereof, I have hereunto affixed my signature this _____ day of _____, 2022.

_____/S/_____
Mary M. Zajac,
Official Court Reporter

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